FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PAVILION AT OCEANSIDE (P-6-06, D-5-06, C-(19-23)-06) (SCH No. 2006111033)

Prepared By:

The City of Oceanside
300 North Coast Highway
Oceanside, CA 92054

And:

Affinis
Shadow Valley Center
847 Jamacha Road
El Cajon, CA 92019
(619)441-0144

September 4, 2008

NOTICE OF DETERMINATION

City of Oceanside, California

TO:
Recorder/County Clerk
County of San Diego
P.O. Box 1750
San Diego, CA. 92112-4147

FROM:
City of Oceanside
Planning Division
300 N. Coast Highway
Oceanside, CA 92054

Subject:	Filing of Notice of Determination in compliance with Public Resources Code, Sections 21108 and 21152.
SCH No.:	2006111033
Lead Agency:	City of Oceanside
Project Manager:	Jerry Hittleman, Planning Division; (760) 435-3535
Applicant:	City of Oceanside
Address:	300 N. Coast Highway, Oceanside, CA 92054
Project Location:	City of Oceanside
Project Title:	Pavilion at Oceanside Project Environmental Impact Report
Description:	The proposed project is a 950,000 square foot shopping center on a 92-acre parcel.

This is to advise that the Planning Commission of the City of Oceanside, as Lead Agency, approved the above described project on Monday, October 6, 2008 and determined that:

1. The project will have a significant effect on the environment.
2. An Environmental Impact Report was prepared pursuant to the provisions of CEQA.
3. Mitigation measures were made a condition of approval.
4. A Statement of Overriding Consideration was adopted.
5. Findings were made pursuant to CEQA.

Furthermore, this certifies that the Environmental Impact Report with comments and responses and the record of project approval is available to the general public at the Community Development Department, Planning Division Counter, 300 N. Coast Highway, Oceanside, California.

Jerry Hittleman,
City Planner

Date: October 7, 2008

FILED
Gregory J. Smith, Recorder/County Clerk
OCT 13 2008
BY _____ DEPUTY

FILED IN THE OFFICE OF THE COUNTY CLERK
San Diego County on OCT 13 2008
Posted OCT 13 2008 Removed _____
Returned to agency on _____
Deputy _____

STATE OF CALIFORNIA - THE RESOURCES AGENCY
DEPARTMENT OF FISH AND GAME
ENVIRONMENTAL FILING FEE CASH RECEIPT

343970

Lead Agency: CITY OF OCEANSIDE Date: 10/13/2008

County/State Agency of Filing: SAN DIEGO Document No.: 014713

Project Title: PAVILLION AT OCEANSIDE PROJECT ENVIRONMENTAL IMPACT REPORT

Project Applicant Name: CITY OF OCEANSIDE

Project Applicant Address: 300 N COAST HWY

City OCEANSIDE State CA Zip Code 92054 Phone Number: (760) 435-3535

Project Applicant (check appropriate box):

☑ Local Public Agency ☐ School District ☐ Other Special District ☐ State Agency ☐ Private Entity

Check Applicable Fees:

☑	Environmental Impact Report	$2,606.75	$ 2,606.75
☐	Negative Declaration	$1,876.75	$
☐	Application Fee Water Diversion (State Water Resources Control Board Only)	$886.25	$
☐	Projects Subject to Certified Regulatory Programs	$886.25	$
☑	County Administrative Fee	$50.00	$ 50.00
☐	Project that is exempt from fees		
	☐ Notice of Exemption		
	☐ DFG No Effect Determination (Form Attached)		

TOTAL RECEIVED $ 2,656.75

Signature and title of person receiving payment: Jm Keeton Deputy

WHITE - PROJECT APPLICANT YELLOW - DFG/FASB PINK - LEAD AGENCY GOLDENROD - COUNTY CLERK

DFG 753.5a (Rev. 1/08)

343970

Joe Henn

From: Chris Harrison [chris@lightfootpg.com]
Sent: Monday, October 13, 2008 2:43 PM
To: Mel Kuhnel; Joe Henn; Darrell Baker; Ann Gunter; rrouse@luce.com; lonestar@affinis.net; mrmcguirelaw@cox.net; johns@odayconsultants.com; tomh@helixepi.com; aoliver@swagroup.com; mdemarta@rtkl.com; kpittsford@sgpa.com
Subject: Pavilion - NOD
Attachments: Nod.10-13-08.pdf

The NOD was posted today with the County, and has been forwarded to the City for posting. Please find the PDF of the posted NOD and CDFG Fee Receipt attached.

Chris Harrison
Senior Planner

The Lightfoot Planning Group
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Carlsbad, CA 92008
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E - chris@lightfootpg.com

<<Nod.10-13-08.pdf>>

INTRODUCTION TO THE FINAL EIR

This Final Environmental Impact Report (FEIR) for the proposed Pavilion project complies with all criteria, standards, and procedures of the California Environmental Quality Act (CEQA) of 1970 (California Public Resources Code, Sections 21000 *et. seq.*), and the City's implementation guidelines. As directed by Section 15132 of the CEQA Guidelines, this FEIR includes the chapters listed below:

Chapter A: Executive Summary.

Chapter B: Public comment letters on the Draft EIR and responses by the City of Oceanside.

Chapter C: Modifications to the draft EIR pursuant to Section 15088 c) of the CEQA Guidelines.

Chapter D: The Mitigation, Monitoring, and Reporting Program, as required by Section 21081.6 of the Public Resources Code and supported by Section 15091(a)(1) of the CEQA Guidelines. When making Findings that change or alter, or which have been incorporated into the project that mitigate or avoid significant environmental effects, the City of Oceanside, as the CEQA Lead Agency, is required to adopt a reporting or monitoring program. The program ensures compliance with these changes or conditions of approval during project implementation.

The Draft EIR (DEIR) for the proposed Pavilion at Oceanside (P-6-06, D-5-06, C-(19-23)-06, SCH No. 2006111033) and associated Appendices and Technical Appendices are included with this submittal. These documents have been altered as noted in Chapter C, which provides clarifying modifications made to the DEIR.

A public scoping meeting was held at The City of Oceanside's Community Center on November 16, 2006. A Notice of Preparation (NOP) identifying the scope of issues for the EIR was circulated by the City of Oceanside for a 30-day public review period between November 6 to December 6, 2006.. The NOP and response letters are included in Appendix A of the DEIR. The 45-day public review period for the DEIR originally extended from May 12 to June 26, 2008, but was extended to July 10, 2008 in response to a written request (see Chapter B). The DEIR was circulated to Responsible public agencies. Ten (10) copies of the DEIR were sent to the State Clearinghouse along with the required Notice of Completion (NOC). Notices of the availability of the DEIR were published in the local newspaper at the same time. The DEIR was made available for review at the City's Planning Department and at the Downtown Oceanside Library; digital copies were also provided to the City and were made available to the public on the project's website (oceansidepavilion.com).

A total of nine public agency comment letters, two from attorneys/legal services, and three letters from the public were received during the CEQA review period for the DEIR. Copies of all the letters, along with written responses to each comment, are included in Chapter B of this FEIR. The Oceanside Planning Commission will consider whether to certify the FEIR as complete and in compliance with CEQA. If the project is approved, a Notice of Determination (NOD) will be filed with the State Clearinghouse and the County Clerk.

CHAPTER A

EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

I. PROJECT DESCRIPTION

The proposed project area is an approximately 92-acre parcel in the City of Oceanside (Figure 1), north of Mission Avenue and SR 76, and immediately east of Foussat Road. It is within Sections 7 and 18 of Township 11 South, Range 4 West on the USGS 7.5' San Luis Rey Quadrangle (Figure 2). The San Luis Rey River is north of the property, the Oceanside Municipal Airport is west, and single-family residential development is to the east.

The project as originally proposed had significant, unmitigable impacts to land use and biological resources because it was not in conformance with the City of Oceanside's Draft Subarea Plan (SAP). The Draft SAP calls for the provision of a wildlife corridor across this site to provide a habitat linkage to facilitate movement of the federal-listed Threatened coastal California gnatcatcher (Polioptila californica californica) between preserved lands in Oceanside and Carlsbad to the south and habitat on Camp Pendleton to the north. Because the opportunities for providing a corridor on the site are severely constrained by SDG&E power lines and multiple easements, a Science Review Panel (SRP) was convened to recommend alternative corridor alignments.

The proposed project was well into the design stage at the time the SRP was convened and prepared its report, and the project originally submitted did not incorporate any of the SRP report recommendations. The SRP report indicates that the project as originally proposed would substantially impair the City's ability to adopt and implement a Habitat Conservation Plan that adequately promotes an avian/gnatcatcher dispersal corridor through central Oceanside.

After reviewing the SRP report recommendations and meeting with representatives from the Wildlife Agencies, an alternative was prepared that incorporated the project revisions needed to accommodate the on-site corridor recommendations of the SRP. This alternative was included in Chapter IV of the DEIR as the "Reduced Project/Subarea Plan Alternative," and the applicant has now indicated its willingness to proceed with this alternative rather than the originally proposed project (Figure 3).

In preserving approximately 4 acres along the site's eastern boundary, the revised project would be developed in compliance with the requirements of the draft SAP. The 4 acres would remain undeveloped and be restored to serve as a functioning wildlife movement corridor and linkage for the gnatcatcher. This 100-foot wide corridor is immediately adjacent to a 100-foot-wide off-site SDG&E corridor. Combined, these would ultimately provide a 200 foot-wide corridor for gnatcatcher movement, thus meeting the goals of the Draft SAP.

A. Project Objective

The objectives of the proposed Pavilion at Oceanside are as follows:

1. To create a unique shopping center consisting of approximately 950,000 square feet that implements the City's designation of the site for Community Commercial land uses, providing a wide range of retail, entertainment, and community uses in conformance with City zoning requirements and General Plan land use goals and principles.

2. To create a destination shopping center providing a variety of unique shopping, dining, and entertainment opportunities that will serve Oceanside residents, persons visiting Oceanside, and that will attract shoppers from surrounding communities.

3. To facilitate productive and attractive re-use of the project site that is an abandoned drive-in movie theater currently being used for weekend swap meets.

4. To implement the General Plan's economic goals and principles by significantly enhancing the economic vitality of the City of Oceanside by providing additional revenues from this site through increased property taxes and sales taxes, increasing the City's opportunity to recapture its fair share of citizens' sales tax expenditures presently going to surrounding communities.

5. To implement the General Plan by creating additional employment opportunities, including temporary construction-related employment and permanent retail/property management-related employment, that will also contribute towards the City's achievement of a jobs/housing balance by providing additional employment opportunities without increasing housing stock within the City.

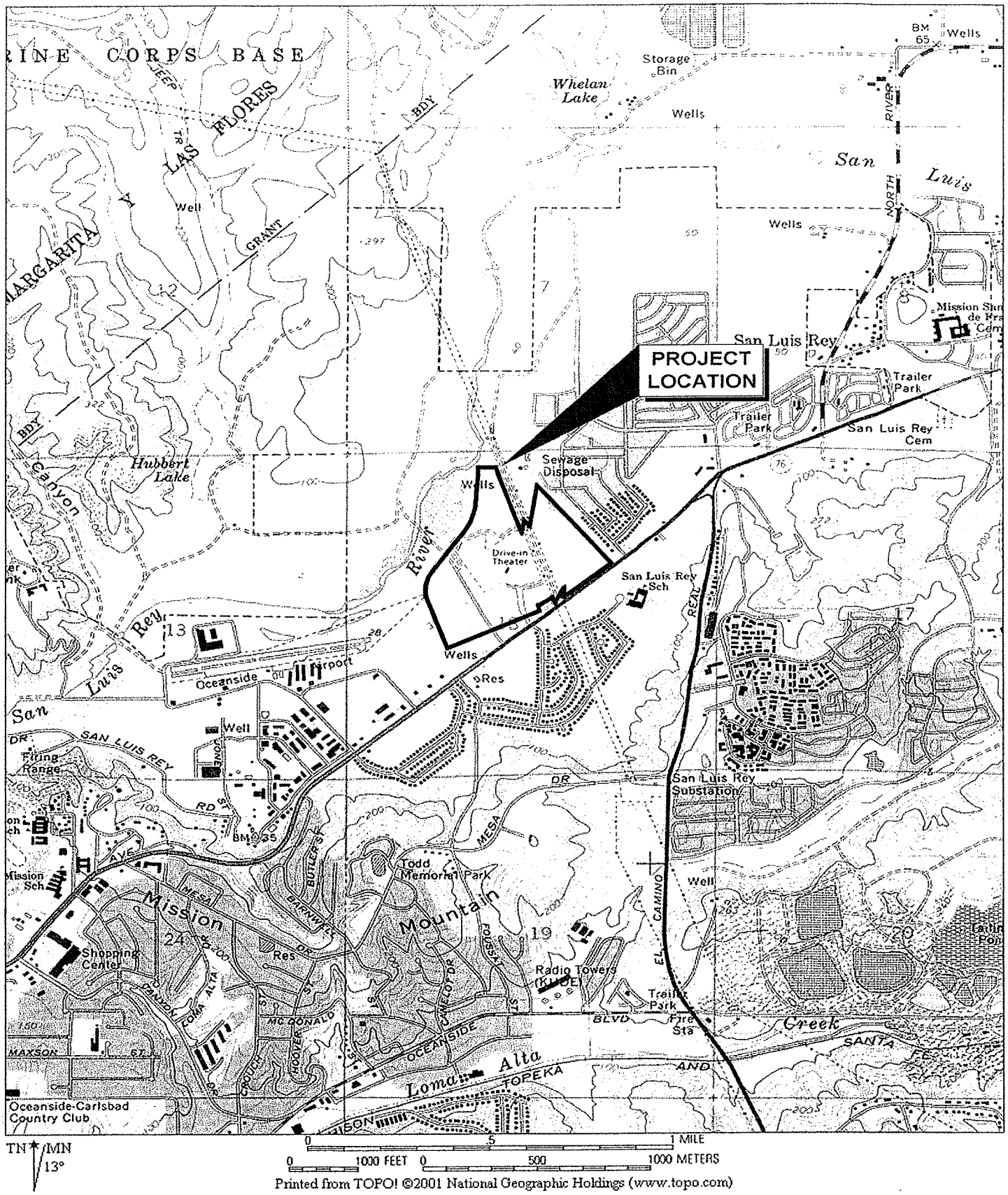
6. To create a development that is compatible with and does not interfere with the safety and function of the Oceanside Municipal Airport.

7. Provide a pedestrian-friendly "main street" lifestyle center combining small shops, restaurants, movie theaters, and recreational/health facilities in combination with larger retail outlets.

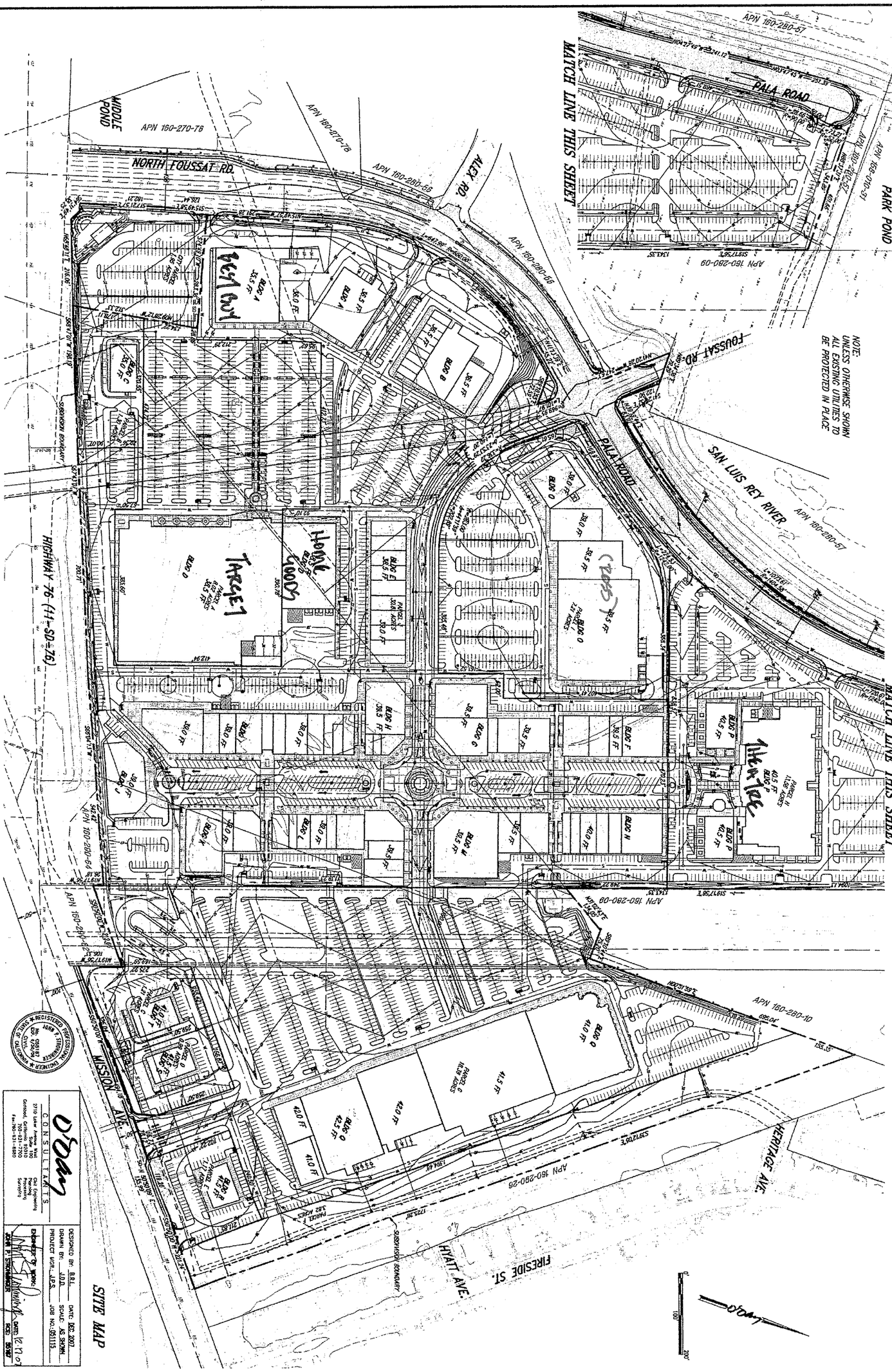
B. Project Features

The project application includes a Tentative Parcel Map, Development Plan, five Conditional Use Permits (a movie theater, health club, and three drive-through uses), and an Underground Waiver request for the existing high-voltage electrical transmission lines located on the site.

Affinis Shadow Valley Center 847 Jamacha Road El Cajon, CA 92019	**REGIONAL LOCATION IN SAN DIEGO COUNTY**	**FIGURE S-1**



Affinis Shadow Valley Center 847 Jamacha Road El Cajon, CA 92019	**PROJECT LOCATION ON USGS 7.5' SAN LUIS REY QUADRANGLE**	**FIGURE S-2**



SOURCE: O'DAY CONSULTANTS, 2008

S-5

S-6

Affinis

Shadow Valley Center
847 Jamacha Road
El Cajon, CA 92019

REDUCED PROJECT/
DRAFT SUBAREA PLAN ALTERNATIVE

FIGURE S-3

Tentative Parcel Map. The Tentative Parcel Map proposes to divide the approximately 92 gross acres of the project site into 10 parcels with 9 for leasing purposes, where each commercial parcel includes building, hardscape, landscape and parking areas and one for open space/habitat corridor purposes.

The property is characterized by level ground and large areas of pavement remaining from the former drive-in theater. Project development would require the demolition of four existing structures associated with the former Valley Drive-In theater: a snack bar/projection room building, an office building, and two ticket booths. Four movie screens would be removed as well. Aside from the paved areas, the property has been greatly disturbed and is largely covered with weeds, with a few scattered trees and patches of shrubs.

Grading work will require approximately 459,000 cubic yards of fill to be imported to ensure appropriate drainage and underground utilities to serve the proposed development. Pending final certification by FEMA for the completed San Luis Rey River levee project, flood protection would be required for the project site until the FEMA flood map is certified. The fill would serve to provide this needed protection. As project development would increase the amount of impervious surface area on-site, Best Management Practices (BMPs) have been prepared to avoid and minimize impacts to water quality and have been incorporated into the project design. Landscaped swales for example, have been incorporated into the site plan to collect and filter runoff from stormwater, working in conjunction with other on-site drainage facilities for retention and water quality purposes.

Although numerous overhead existing high voltage and underground utilities cross the property, site access, circulation, and parking were designed to completely avoid all overhead utility poles. In addition, buildings and site improvement plans have been designed with respect to necessary easements throughout the site.

The proposed project will include a City-owned parcel consisting of approximately 1.95 acres. This parcel is located at the northeast corner of the SR 76/Foussat Road intersection, and is situated within the airport runway protection zone. As such, this parcel will be used exclusively for parking, landscaping and signage purposes. The use of this parcel is subject to a future lease agreement between the City and the applicant. The City also has a water well designated for placement within this parcel. Although the exact well location is not known at this time, and is not a part of this project, the aforementioned uses proposed on the parcel can accommodate the well at some point in the future. The well will be used to extract groundwater which will be treated at the Mission Basin Groundwater Treatment Facility located north of the project site.

The proposed project would be accessible from eight separate entrances, allowing access from three different roads: North Foussat Road, Mission Avenue, and Pala Road. Major entries would be via signalized intersections at North Foussat Road and Mission Avenue and frontage improvements would be constructed along these roadways. Of the eight entrances, three would be signalized. These include the existing signalized access located on Mission Avenue and two proposed off Foussat Road (one at Alex Road and one at the main entry to support turning movements at the

existing bridge). Another "right-in, right-out" access is proposed on Foussat Road. Pala Road, designated as a secondary arterial in the City's Circulation Element, would be dedicated and fully improved along the western project frontage. The project's full width Pala Road construction along the project's frontage would terminate at the northern edge of the property with a cul-de-sac bulb, which would allow a future extension of the road by the City or others with ultimate buildout of the Circulation Element. The additional four un-signalized driveways would be along the project's Pala Road frontage.

Street Vacation. A section of old Foussat Road (used solely for access to the weekend swap meets) right-of-way crosses the site, terminating at the SR 76 right-of-way. As this would not be needed as public right-of-way for the project, a vacation of the existing easement for public highway purposes is included as part of the project's application. An easement for the existing underground public utilities would be retained when old Foussat Road is vacated.

Underground Utilities Waiver Request. Several overhead SDG&E high-voltage transmission lines traverse the project site. In accordance with Section 901(G)3 of the Oceanside Subdivision Ordinance, a waiver is requested for the existing transmission lines due to the finding that the existing overhead electric lines are transmission lines in excess of thirty-four thousand five hundred volts (34.5 kV). All other existing and proposed electrical distribution lines and other public utilities within the project will be installed underground.

Development Plan. The project proposes to develop approximately 950,000 square feet of commercial uses ranging from various retail shops to a movie theater, health club, and restaurants. A total of 4,713 parking spaces would be provided. Pedestrian and bicycle routes will be incorporated throughout the project distinguished by landscape and enhanced pavement treatments. These treatments will also be utilized at internal intersections and at the central traffic circle to aid in cuing slower speeds for pedestrian activity. A broad landscaped connecting route along the Pala frontage just east of the Foussat Bridge will serve to link the existing bicycle levee trail with the central portion of the shopping center. In addition, a bicycle and pedestrian linkage is also proposed to the east, to connect the terminus of Heritage Street. Storefronts will vary between single- and two-stories along the main street.

The architecture of The Pavilion uses an eclectic variety of forms and influences that date back to the San Luis Rey Mission. The palette is broad and influenced by Mediterranean, agrarian, and California Modern aesthetics. Materials include natural-toned cement plaster, simulated stone, and wood and metal siding. Tenants are encouraged to express their individual identity with this diverse palette. The architecture, landscape, and signage are coordinated by this design approach.
Landscape and hardscape areas are provided around the buildings and in the parking areas. Projects within areas zoned Community Commercial (CC) are required by the City's Zoning Ordinance to provide a minimum of 15% landscaping of the net site area. The project proposes to landscape 18% of the site's total area, thus exceeding the City's requirement. Trees to be incorporated into the landscape plan include palms and coast live oak along the mainstreet lifestyle center, and strawberry trees in the parking bays. Olive trees would be planted in the pedestrian

corridor, with Torrey pines and sycamores along the perimeter of the project, and sycamores along the main spine. Shrubs and vines would include bird of paradise, acacia, bougainvillea, honeysuckle, star jasmine, and trumpet honeysuckle.

The project's hardscape will include paved walkways in front of the buildings as well as enhanced paving for internal intersections and the central traffic circle, with the intent of the design being to draw attention to direction options as well as to cue slower traffic speeds for pedestrians.

The center's plaza will be located in front of the multiplex theater, where a pavilion, lawn amphitheater, children's wet deck, fountain, and a courtyard will be situated. This focal gathering of the center will be oriented such that patios, store fronts and cafes will be facing it.

As the project is bordered by three roadways, the Landscape Concept Plan (LCP) proposes a landscaped boundary along Mission Avenue and landscaped setbacks along Foussat Road and Pala Road. A broad landscaped connecting route will be provided along the Pala frontage, just east of the Foussat Bridge which will serve as a linkage between the existing levee bicycle trail and the shopping center's central area.

The applicant has worked with the North County Transit District to provide an appropriate location for a transit bus stop within the project. The proposed bus stop will accommodate up to 4 buses at one time, and will be located at the southeast corner of the main pedestrian promenade for convenience. The design is such that the buses can enter and leave the shopping center at the Mission Avenue signalized intersection.

Conditional Use Permit(s). Five Conditional Use Permits are proposed for the Pavilion at Oceanside. These include three drive-through facilities, a movie theater, and a health club.

- Drive-through uses. The drive-through uses will be located within Parcels C, D, and J. Although specific tenants have not yet been identified, the general building siting, drive-through lane configuration and parking layout are displayed for each building. Access to each site will be provided from the internal circulation drives.

- Health Club. The proposed health club would consist of approximately 40,000 square feet, and would be located in Parcel H. The architectural design is to be consistent with the center's theme. Access to this facility would be from the internal circulation drives.

- Movie Theater. The proposed multi-plex movie theater would occupy approximately 60,000 square feet and would be located in the northern portion of the site on Parcel I. Pedestrian walkways will be used to link all areas of the center to this focal attraction.

Other (Non-City) Approvals. The applicant will be required to obtain approvals and/or permits from a number of Responsible Agencies, including the San Diego County Regional Water Quality Control

Board, the Airport Land Use Commission, the Federal Aviation Administration, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, California Department of Fish and Game, and Caltrans.

II. ENVIRONMENTAL ANALYSIS

A. AESTHETICS

Impact. Development of the property would result in a change of the currently obstructed view of partially vacant land and the weekend swap meet cars, display stalls, and associated items to a view of an approximately 950,000 sq ft commercial shopping center with associated parking, lighting, and landscaping. The height of the structures would vary, ranging from a low of 22 feet (a kiosk area), with most buildings averaging 36 feet. The proposed cinema would be approximately 56 feet in height, with an attached architectural element tower at 80 feet. While the existing drive-in screens would be removed, the overhead transmission lines would remain in place and would still be visible.

The applicant has developed and modified the proposed architectural plans in consultation with the City of Oceanside. Each building design would incorporate consistent theme elements while recognizing operational and functional requirements. Uniquely detailed and individual facades would be provided through use of layered architectural forms and colors. To provide visual interest from both the pedestrian level and greater distances, a variety of styles, design elements, materials, and colors would be used. The proposed building materials and design elements, detailed in the project description above, would be used to accomplish the character and uniqueness of the design.

The appearance of loading docks in the rear of buildings was of concern to the City, and the architectural plans were revised to address this concern. Rear facades have been detailed to have enhanced architectural features and elements. Additionally, perimeter landscaping has been incorporated to soften the views to these areas.

Section 3021 of the City's Zoning Ordinance (Screening Specifications) requires that mechanical equipment is screened when adjacent to a residential district. Such equipment includes heating, air conditioning, refrigeration equipment, plumbing lines, duct work, and transformers. Per Section 3021 C, screening materials may have evenly distributed openings or perforations averaging 50% of the surface area and shall effectively screen mechanical equipment so that it is not visible form a street or adjoining lot. The project will be required to provide screening as a standard Condition of Approval. For equipment visible from the bike path and S.R. 76, equipment may be painted to match the roof to address more distant views of rooftops.

Construction of a project of this scale would introduce a new source of light and glare into the area. Glare would not be expected to be a significant factor, as this is more commonly associated with multi-story structures with many windows. The proposed structures would be one or two stories, and the majority of the windows would face inward toward the center of the development area.

Lighting would be needed for the buildings themselves, as well as the parking areas. The project would be subject to the City's Light Pollution Control Ordinance.

The project would not have an adverse effect on a scenic vista or damage any scenic resources. As views of the site are currently dominated by the power lines and the abandoned large drive-in theater, screens, and ancillary buildings, the introduction of architecturally themed and designed structures to the site would not substantially degrade the visual character or quality of the site or its surrounding areas, eliminating the "hodge-podge" appearance of the weekly swap meet. While the project would introduce a new source of light (and glare, to a lesser degree), it would be in the context of the existing, urbanized corridor along Mission Avenue, which includes other commercial and industrial uses along with the Oceanside Airport. The project design compliance with City regulations would avoid a significant impact.

Mitigation. As no significant impacts have been identified, no mitigation measures are required.

B. AIR QUALITY

Impact. The project proposes the development of a commercial center spanning 950,000 square feet on the 92-acre parcel. Listed below are project-related sources which would potentially impact air quality and were analyzed for projected functional emissions.

Short-Term:

Construction Emissions. Construction activities associated with rough-grading operations during project development would result in the release of exhaust emissions from motor vehicles. Fugitive dust emissions, which include PM_{10} and $PM_{2.5}$ (respirable particulate matter less than 10- and 2.5-microns in size respectably), are caused by ground disturbance during earthwork and other construction-related activities may have a substantial, but temporary, impact on air quality as well.

The proposed project would require the import of fill to raise the existing site level three to four feet. The Pavilion Commercial Center would generate 106.4 pounds of fugitive dust per day. All phases of earthwork, however, will utilize surface wetting at least three time daily as a dust-control measure to suppress dust particulates and keep them from becoming airborne. Utilization of such dust-control measures would maintain fugitive dust emissions below the threshold of significance.

Powered Haulage. The proposed project would require three to four feet of soil to be imported onto the subject property. The process of importing this soil would result in a total of 706 average daily trips for a period of three months, where the average trip distance would be three miles.

VOC Emissions. Volatile Organic Compound (VOC) emissions from architectural coatings, such as painting, would be generated during project development.

Long-Term:

Traffic Emissions. The large scale of the proposed commercial center would generate an increase in existing traffic levels, thus elevating the amount of vehicular emissions in the area. The project is expected to generate 32,175 average daily trips (ADT), with a median speed of 45 miles per hour (derived from the combined speeds of the freeway and surface street activity) used to analyze potential impacts to air quality from vehicle trip emissions (included under Project Operations within).

Construction Emissions and Powered Haulage. Construction activities will inevitably result in dust emissions during clearing and excavation phases. Wet dust suppression techniques, such as watering, would be used during construction to suppress the fine dust particles from becoming airborne, thus lowering the impact to a less-than-significant level.

All criteria pollutants caused by and related to construction emissions were found to be below the recommended risk level, with the exception of NO_X (Nitrogen oxides), which is projected at 288.5 pounds per day under cumulative construction grading operations, thus exceeding the established significance threshold of 250.0.

VOC emissions. Low VOC paints shall be used during architectural coating application to reduce the potential impact to a less than significant level. No significant impacts to air quality are therefore anticipated to occur due to VOC emissions.

Traffic emissions. The analysis determined that project-induced traffic emissions would be below the significance threshold established by the San Diego County Air Pollution Control Board (SDAPCD). No significant impacts to air quality are therefore anticipated from traffic emissions associated with project implementation.

Compliance with the Regional Air Quality Strategy (RAQS) and the State Implementation Plan (SIP). The proposed project would be consistent with the RAQS and the SIP, therefore no associated significant impacts would result from project implementation.

Mitigation. As no direct significant impacts to air quality would result from project implementation, no mitigation measures are required.

To prevent construction emissions from surpassing an acceptable threshold for NO_x, the project's grading contractor shall ensure that all construction equipment is properly tuned and maintained, and should utilize late model engines, low-emission diesel products, alternative fuels, and engine retrofit technology consistent with the *Carl Moyer Guidelines*.

C. BIOLOGICAL RESOURCES

Impact.

Direct Impacts. The project would impact all of the property, resulting in the loss of 0.73 acre of jurisdictional southern willow scrub and disturbed wetland; 39.8 acres of non-native grassland; and 47.8 acres of non-native vegetation, disturbed land, and developed areas. No direct impact to any rare, endangered, threatened, or sensitive species are anticipated.

Potential Indirect Impacts. Indirect impacts are effects on habitats which may occur over time as a result of proximity to developed areas, sometimes referred to as "edge effects." Of concern for the project are the sensitive species occurring off-site in the adjacent open space associated with the San Luis Rey River.

Water quality. During construction, contaminated surface runoff and sedimentation can adversely affect water quality in adjacent habitats, particularly riparian and wetland areas. This, in turn, can adversely affect vegetation and animals dependent upon these resources.

- Fugitive dust. Dust generated during project construction can potentially affect adjacent habitats. The photosynthetic capability of dust-covered vegetation can be reduced, thus making it more susceptible to pests and disease. Animals dependent upon this vegetation would in turn be adversely affected.

- Invasive species. Non-native plants introduced by project landscaping and/or from disturbance during grading can be highly invasive and can out-compete native vegetation, reducing habitat values. Non-native vegetation can also increase fire risk, change ground and surface water levels, and adversely affect wildlife dependent on the native habitat.

- Habitat fragmentation/edge effects. Breaking up larger parcels of habitats into smaller discontinuous patches potentially results in habitat fragmentation. Edge effects of development adjacent to native habitats can include invasion by exotic species, intrusion of people and domestic animals, lighting, and noise, all of which can lead to degradation of adjacent habitat(s).

- Noise. Sensitive wildlife species, such as breeding avifauna, can be adversely affected by short term noise impacts (construction during the breeding season) as well as long-term edge-effects as noted above.

- Lighting. Night-lighting can spillover into adjacent habitats, potentially interfering with wildlife movement and nocturnal habitats of certain species.

Adoption and Implementation of an Oceanside SAP. While the City's Draft SAP has not been adopted and projects are not legally required to comply with its policies, the City and the resource agencies evaluate all projects' potential impacts on future plan implementation. The property is

within the proposed Wildlife Corridor Planning Zone (WCPZ), and development of the entire site as the project proposes would support use of a portion of the property as a gnatcatcher/avian corridor, as contemplated by the Draft SAP. The Draft Plan also designates a portion of the property as a moderate priority area for restoration, as it currently does not support native vegetation, and revegetation of such properties within the corridor with coastal sage scrub would be expected to improve and facilitate north-south movement of gnatcatchers. While the project would support restoration of this portion of the site, it should be noted that much of this area is already constrained by transmission lines, pipelines, and other easements that cannot be revegetated for safety and maintenance reasons.

San Luis Rey River Buffer. The existing levee extends 100 feet out from the San Luis Rey River; the levee is rock-faced on both sides and a paved bike path/recreational trail is at the top. As this area is already developed, the resource agencies have agreed that no additional buffer is required on-site. The project development is further set back from the levee by the full width of Foussat and off-site Pala Roads as well as further on-site landscaping and building setbacks.

The project would not be expected to have direct impacts on sensitive species and habitats along the San Luis Rey River, but indirect impacts would be potentially significant. The direct loss of 0.73 acres of wetland and jurisdictional habitats and 39.8 acres of non-native grassland would be significant but mitigable. Additionally, the project would be in compliance with the draft SAP.

Mitigation

Direct Impacts. Wetland impacts to 0.12 acre of southern willow scrub shall be mitigated at a 3:1 ratio (0.36 acre); impacts to 0.39 acre of disturbed southern willow scrub and 0.22 acre of disturbed wetland shall be mitigated at a 2:1 ratio (0.78 acre and 0.44 acres, respectively), for a combined total of 1.58 acres. Mitigation for these impacts would be accomplished off-site by a combination of wetland creation and purchase of mitigation credits from the Mission Resource Conservation District arundo (giant reed) removal program. The mitigation for jurisdictional areas will include creation of 0.28 acre (no net loss) and purchase of 0.40 acre of mitigation credits. Due to the highly disturbed nature of the habitats, mitigation for non-jurisdictional areas (0.62 acre) will consist of purchase of mitigation credits. The total mitigation for wetland impacts (including jurisdictional areas) would consist of creation of 0.28 acre and purchase of 1.3 acres of mitigation credits.

The proposed wetland mitigation plan would create 0.28 of wetland habitat with a 20-foot wide Diegan coastal sage scrub buffer totaling approximately 0.11 acre on a site located approximately 500 feet north of the project boundary and located within designated critical habitat for the least Bell's vireo.

Impacts to upland habitat consisting of the loss of 39.8 acres of non-native grassland shall be mitigated at an 0.5:1 ratio (19.9 acres). While the Draft HCP envisions mitigation within the proposed WCPZ for the loss of habitat within the proposed WCPZ, no pre-approved mitigation areas or banks are currently available within the proposed WCPZ. The location of all off-site mitigation will require consultation with the City of Oceanside and the resource agencies.

Indirect impacts. To avoid potential indirect impacts to sensitive species occupying the off-site habitat along the San Luis Rey River, the following measures shall be implemented:

- Invasive Species: Landscaping within the development area shall avoid the use of invasive non-native plants, detailed in Table 5-5 of the draft HCP and/or the California Invasive Plant Inventory.

- Seasonal Restrictions on Grading. No grading, grubbing, or clearing shall be allowed during the breeding season for least Bell's vireo (March 15-September 15) or raptors (January 31-July 31) unless preconstruction surveys are conducted to determine if these species occur within areas that would be impacted by noise levels greater than 60 dB L_{eq}.

  If these species are nesting within this area at the time, these construction activities shall either (1) be postponed until all nesting/breeding behavior has ceased, or (2)a temporary noise barrier or berm is constructed at the edge of the development footprint to ensure that noise levels are reduced to below 60 dB L_{eq}.

  To ensure compliance with the Migratory Bird Treaty Act, clearing of any native vegetation shall be done outside the breeding season of most avian species (February 15-July 31), unless pre-construction surveys are conducted to determine that no nesting birds are present immediately to clearing nor are in areas which could be impacted by noise.

- Construction limits: To ensure that construction activity remains within the defined limits of work, all construction and staging areas shall be fenced with orange construction fencing and silt fencing or fiber rolls. Delineated areas shall be regularly inspected by the project biologist per the construction monitoring schedule.

- Lighting: Lighting within the project area adjacent to the San Luis Rey River shall be selectively placed, directed away from the river, and of the lowest illumination possible for human safety.

Additionally, in responses received from the resource agencies during public review of the DEIR, the following mitigation measure has been added:

- A monitoring biologist (approved by the City) shall: 1) attend a preconstruction meeting, 2) be present during initial clearing and grubbing of habitat, and 3) be present during project construction within 500 feet of preserve habitat to ensure compliance with all conservation measures. The monitoring biologist shall ensure that: the contractor and construction personnel are educated about the sensitivity of adjacent habitats, construction fencing is installed, seasonal restrictions on grading are followed, trash is removed from sensitive habitat areas or adjacent areas, vehicle fueling occurs outside sensitive areas, pets of project personnel are not brought to the project site, construction night lighting is minimized to avoid impacts to sensitive habitats, and violations are reported and mitigated appropriately.

The biologist shall submit a letter to the City that documents compliance with mitigation measures at the conclusion of construction.

Mitigation Implementation and Monitoring. Proof of purchase of mitigation credits or other mitigation methods such as preservation/ conservation for the loss of on-site upland habitats shall be required prior to issuance of the project's grading permit. Mitigation for the loss of jurisdictional waters would be conditions of the permits issued by the ACOE and CDFG. The proposed wetland mitigation plan (Appendix C) includes a 5-year monitoring program that includes regular monitoring visits, an annual report on the success of the restoration effort and the need for any remedial actions, and a final report at the end of the 5-year program.

D. CULTURAL AND PALEONTOLOGICAL RESOURCES

Impact. Cultural Resources. No significant impacts to identified cultural resources are anticipated, although the alluvial setting of the project and history of flooding allows for the possibility of deeply buried cultural resources to exist in the area. Impacts to buried cultural resources during project construction would be considered potentially significant.

Historical Resources. As no historical resources were found to occur on the project site, no impact to historical resources would result from project implementation.

Paleontological Resources. The project area is entirely underlain by the Eocene Santiago Formation, which is known to be fossil-bearing. Direct or indirect destruction of a unique paleontological resource during project construction would be considered a significant impact.

Mitigation

Cultural Resources. An archaeological monitoring program would be implemented to ensure that project development would have no significant impacts to cultural resources within the project area. The program would consist of the following:

- The development of a pre-excavation agreement between the applicant and the appropriate Luiseño tribe(s) or other Native Americans as determined by the City.
- The presence of a qualified archaeologist and invitation to a Native American monitor at the pre-construction meeting.
- A Native American monitor to be invited and an archaeological monitor will be on-site during initial grading, trenching, or other ground-disturbing activities of existing soils. Monitoring will not be required during the subsequent soil import and grading operations as it will not disturb native soils.
- The analysis of any cultural material found.

- The preparation of a report detailing the methods and results of the monitoring program.

- The curation or repatriation of the cultural material collected.

Implementation of this monitoring program would ensure that project development would have no significant impacts to cultural resources within the project area.

Paleontological Resources. The following measures are required to offset potential impacts to paleontological resources:

- Prior to issuance of grading permits, the applicant shall confirm to the City of Oceanside that a qualified paleontologist has been retained to carry out the mitigation program. (A qualified paleontologist is defined as an individual with an M.S. or Ph.D. in paleontology or geology who is familiar with paleontological procedures and techniques.) The paleontologist shall attend pre-grade meetings to consult with grading and excavation contractors.

- A paleontological monitor shall be onsite during grading operations to evaluate the presence of fossils within previously undisturbed sediments of the Santiago Formation to inspect cuts for contained fossils. (A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials.) The paleontological monitor shall work under the direction of a qualified paleontologist.

- When fossils are discovered, the paleontologist (or paleontological monitor) shall recover them. In most cases, this fossil salvage can be completed in a short period of time. Some fossil specimens (such as a complete whale skeleton) may require an extended salvage time. In these instances, the paleontologist (or paleontological monitor) shall be allowed to temporarily direct, divert, or halt grading. To allow recovery of small fossil remains such as isolated mammal teeth, it may be necessary in certain instances to set up a screen-washing operation on the site.

- Prepared fossils along with copies of all pertinent field notes, photos, and maps shall be deposited (with the applicant's permission) in a scientific institution with paleontological collection such as the San Diego Natural History Museum. A final summary report shall be completed and distributed to the City and other interested agencies which outlines the results of the mitigation program. This report shall include discussions of the methods used, stratigraphy exposed, fossils collected, and significance of recovered fossils.

Mitigation Implementation and Monitoring. Prior to issuance of the project's grading permit, the applicant shall confirm to the City of Oceanside that qualified archeologists and paleontologists have been retained to carry out the mitigation program. The archaeologist and paleontologist shall attend pre-grade meetings to consult with grading and excavation contractors.

E. GEOLOGY/SOILS

Impact. The property is not subject to potential hazards associated with landslides, tsunamis, seiche, loss of mineral resources, or loss of unique geologic features. Liquefaction is an issue in the San Luis Rey River Valley. Subsurface soils on-site have a moderate potential to cause ground settlement from liquefaction and dynamic compaction. Construction of the project would result in importing 459,000 cubic yards of soil to the site. The site grade would be increase up to about 10 feet, with an average increase of about 4 feet. Potential impacts associated with ground settlement are considered significant.

Mitigation. To mitigate the potentially significant impacts associated with ground settlement, the following mitigation measures shall be implemented:

- Loose surficial soil in the upper 1 to 2 feet would be over-excavated prior to placement of fill or in building pad locations. The upper 5 to 10 feet of soil, which is loose to medium dense, would be over-excavated in deep fill areas, and compacted as engineered fill.

- To mitigate potential differential settlement of structures, two options may be used. One is to perform conventional grading with reduced foundation bearing capacities, and the other would be to improve the subsurface with deep dynamic compaction with higher bearing capacities for foundations.

On-site soil generated from cut areas following clearing and grubbing that is free of excess organic material (3% or less by weight) or debris may be suitable for use as structural fill. Imported Select Fill should be non-expansive, having a Plasticity Index of 12 or less, an R-Value greater than 40, and enough fines so the soil can bind together. Imported soil should be free of organic materials and debris, and not contain rocks or lumps greater than 3 inches in maximum size. Imported Select Fill shall be approved by the geotechnical engineer prior to delivery on-site.

Compaction requirements shall be consistent with those specified in the geotechnical report (90-95% relative compaction with 1 to 2% above optimum moisture content), and site grading shall be performed in accordance with these recommendations and the Grading and Earthwork Specifications.

Other measures would be implemented to avoid geotechnical impacts:

- Seismic considerations. Building design would be considered in accordance with the latest edition of the Uniform Building Code (UBC), California Building Code (CBC), or International Building Code (IBC).

- Pavement recycling. The existing pavement at the drive-in theater would be recycled and used on-site; it would be ground to minus 1-inch and mixed with underlying base rock. This material could be utilized as sub-base material in paved areas or "select fill."

- Buried structures. Buried structures/foundations from previous land uses encountered during construction would be removed and replaced with compacted, engineered fill. The upper 7 feet or at least 3 feet below the lowest utility in the area for the movie theater screen foundations would need to be removed.

- Rainy season grading. If grading is to be undertaken during the rainy season, potential unstable subgrade conditions could be encountered. As appropriate, remedial measures such as removal and replacement, use of a geogrid, or soil treatment would be implemented subject to approval by the City Engineer. With such remedial measures, rainy season grading is

  allowable, although the geotechnical report recommends that avoiding construction during the rainy season would also avoid impacts with seasonal groundwater fluctuations.

Mitigation Implementation and Monitoring. The geotechnical consultant shall review the final project plans prior to construction, to ensure that the plans are in compliance with the recommendations and requirements set forth in the geotechnical studies. A pre-construction conference shall be held with the applicant's representative(s), general contractor, grading contractor, and project geologist prior to clearing and demolition operations. Adequacy of clearing operations shall be verified by the geotechnical engineer's representative during construction, prior to placement of engineered fill.

F. HAZARDS AND HAZARDOUS MATERIALS

Impact. Hazardous Materials. Development would place the project approximately 350 to 400 feet from the San Luis Rey River, and within a one-mile radius of three mapped risk sites. Portions of the property have been used for agricultural purposes in the past, and detectable concentrations of restricted agricultural residues were found within some areas of the property. The removal of a leaking underground storage tank (LUST) from the former Mission Auto and Self Storage Center left behind petroleum-impacted soil. As this site is adjacent to the subject property, measures described below are recommended during project grading to ensure that if this impacted soil is found to have crossed into the project area, it will be properly disposed of.

The project site is bordered by the Oceanside Municipal Airport to the west, Mission Avenue and Highway 76 to the south, single-family residential development to the east, and the San Luis Rey River to the north. These properties are not anticipated to be sources of significant environmental concern to the site, provided that lawful procedures for petroleum products and restricted household/agricultural chemical use and storage are followed.

Airport Safety. As detailed in Appendix F, the ALUC initially received an application from the City of Oceanside requesting a determination of consistency for the proposed project with the CLUP (November 28, 2006). The applicant requested a deferment of the determination by the ALUC in early January, 2007, while the project was being redesigned. A new plan was submitted to the ALUC later that month, showing the proposed project relative to the 60-70 dB CNEL noise contours and FAZ and meeting all other requirements for an ALUC consistency determination.

Upon review of the application, the ALUC concluded that the proposed commercial development, including movie theater and retail uses located within the 60-70dB CNEL noise contour was consistent with the applicable CLUP as amended in 2004, provided no significant changes are made. The revised project was also determined to be consistent with guidelines relative to the FAZ, as it would locate all buildings outside the FAZ and would restrict all proposed buildings to a height less than 50 feet; any further changes to the proposed location, intensity, or height of structures within the project must be submitted to the ALUC for continuing consistency determination. Finally, the project is consistent with Caltrans' requirements regarding the FAZ as only parking areas are proposed in this area.

The applicant must file a notice with the FAA for each point that the project would penetrate FAA airspace (such as the street lights, parking lot lights and buildings in or adjacent to the southwestern corner of the project). These penetrations are not anticipated to result in adverse effects, but must have the approval of the FAA.

No significant impacts to land use are expected to occur with respect to the land use designation or the Comprehensive Land Use Plan for the Oceanside Municipal Airport (CLUP), as the project is in full compliance with all airport safety regulations, and has been found to be conditionally consistent with the CLUP, the Federal Aviation Administration (FAA), and Caltrans requirements by the Airport Land Use Commission (ALUC).

Hazardous Materials. The potential for onsite hazardous concentrations of materials/waste and/or petroleum contamination is low to moderate. Although concentrations of all pesticides were found to be below the Total Limit Threshold Concentration, testing revealed five soil samples to have concentrations of dieldrin exceeding the Preliminary Remediation Goal (PRG), and one sample to have concentrations of toxaphene exceeding the PRG.

The project would not result in any significant impacts related to emergency response plans or wildland fires.

Mitigation. To avoid significant impacts associated with potential hazardous materials, the following measures shall be implemented.

- Due to the occurrence of pesticides detected onsite, a Report of Waste Discharge (RWD) must be submitted to the Regional Water Quality Control Board (RWQCB), where the owner/discharger must then acquire waste discharge requirements (WDRs).

- An environmental geologist shall be onsite during grading for observation during soil removal in the area onsite adjacent to the former Mission Auto and Self Storage Center, at the site's southeastern boundary. If petroleum affected soils are encountered, grading will be halted until the soil has been tested and properly removed.

- All trash, debris, and waste materials will be disposed of offsite, in accordance with current local, state, and federal disposal regulations and procedures.

- To mitigate for the presence of restricted agricultural residues onsite which were found to slightly exceed the thresholds established in the PRGs, the project shall place the dieldrin and toxaphene affected soil to depths of 2 to 3 feet, as determined by their sample locations This measure would occur in conjunction with the import of more than 400,000 cubic yards of fill required to raise site grades an average of 3 to 4 feet, and would thereby place a minimum fill cap of 3 feet over the affected soil and a minimum of 7 feet above groundwater. Placement of the affected soil shall be in the proposed parking areas of the Pavilion Commercial Center. This would place the affected soil at least 10 feet away from the proposed underground utilities and proposed bio-swales, and more than 1,500 feet west of the San Luis Rey River levee upon grading completion, thus eliminating potential impacts to surface and groundwater.

- An asbestos and lead survey shall be performed on the structures that currently occupy the site due to their age and potential for carrying these substances. This survey should be performed by a licensed asbestos/lead contractor prior to demolition, removal, and disposal.

- With regard to airport safety, prior to issuance of building permits, the project will be required to provide evidence of compliance with any imposed height limitations or other FAA overflight safety requirements.

Mitigation Implementation and Monitoring. Proof of remediation of any hazardous materials shall be provided to the City of Oceanside's City Planner and City Engineer prior to the issuance of the project's grading permit.

G. HYDROLOGY AND WATER QUALITY

Impact

Water Quality. The project will result in approximately 77 percent of the area being impervious, as compared to approximately 30 percent impervious in the existing condition. Best Management Practices (BMPs) have been developed to avoid and minimize impacts to water quality; these BMPs are proposed as part of the project design. Streets have been designed to minimum widths acceptable for vehicular safety and fire truck access. Parking lots, sidewalks, patios, roof top drains, rain gutters and other impervious surfaces are designed to drain to landscaping, vegetated buffer strips, or vegetated swales where practicable.

Approximately 9,800 linear feet of vegetated swales and approximately 31,850 square feet of vegetated buffer strip are included to treat runoff from buildings and parking areas; these swales/buffer strips would be gently sloped areas planted with vegetation such as grasses, sedges, and other plants to provide filtration and treat runoff from buildings and parking areas. All runoff water being treated by vegetated swales for water quality purposes will flow through approximately 100 feet of swale before entering the storm drain system; runoff will flow at less than two feet per second. The length of the vegetated swales and the low velocity of the runoff allows maximum

pollutant removal. Runoff from the majority of the site will be treated with vegetated swales. Runoff from areas that cannot enter vegetated swales will be treated with filters at the storm drain inlets, and with hydrocarbon booms. All storm drain inlets will be stenciled or labeled with prohibitive language on dumping, such as "No Dumping – I Live Downstream."

Irrigation for each project landscape area will be designed for its size and aspect, and for its vegetation's specific water requirements, including such devices as bubblers or drip irrigation in planter boxes. Rain shutoff devices will be included to prevent irrigation after precipitation. Flow reducers or shutoff valves will be installed to control water loss in the case of a broken sprinkler head or water line. All trash container areas will be paved with an impervious surface designed to prevent runoff from adjacent areas to enter, and will be screened or walled and include a roof, awning, or attached lid on containers to keep out rain

All BMPs proposed in the public right-of-way will be maintained, monitored, and inspected by the City of Oceanside in perpetuity. All privately-owned BMPs will be monitored and maintained by the association, developer, or owner.

Drainage and Retention. Existing drainage to the river is via the on-site 48-inch reinforced concrete pipe (RCP) through the levee, and the outlet of Middle Pond, to the west of the project. Some post development drainage would go to the outlet of Park Pond, to the north of the project.
The post-development drainage area of the 48-inch RCP would be approximately 33.1 acres. During the 10-year on-site storm event coinciding with a 100-year storm in the river, the flap gates to the river are closed and runoff will eventually collect in the storm drain system. When the capacity of the storm drain system is exceeded, runoff will flow to the north to Park Pond, through a bypass pipe. The connection between the storm drain system and the bypass pipe will be inside the inlet structure next to the adjacent property. Inside the inlet structure, the elevation of the pipe from the storm drain system will be lower than the bypass pipe, requiring that storm drain system be at storage capacity before water will enter the bypass pipe. The bypass system would not put the adjacent off-site property at risk of backflow from Park Pond. .

Ponding now occurs under existing conditions, mostly in the form of overland flooding. No ponding would be expected in the on-site parking lots, as the adjacent property is at a lower elevation. Some ponding would occur in a portion of the adjacent property. A ponding depth of two feet at the inlet structure would inundate approximately 3.9 acres of the adjacent property. For most of the projected 3.9 acres the ponding depth would be less than one foot.

Approximately 21.9 on-site acres are proposed to drain to Park Pond under normal runoff conditions. This is approximately one-half of the area assumed in the Army Corps of Engineers' General Design Memorandum (GDM) for the river flood control project. This area is less because the GDM did not include the on-site 48-inch RCP, which drains part of the area that the GDM assumed would drain to Park Pond (although not in the GDM, the 48-inch RCP was constructed with the levee) For Middle Pond, the GDM map indicated there were assumed to be approximately 49.4 acres of on-site and off-site area. With the proposed project, there would be less on-site area and more off-site area than assumed in the GDM.

According to the Flood Insurance Rate Map from the Federal Emergency Management Agency (FEMA), the entire subject property is presently located within Zone A99, which is defined as an "area to be protected from the 100-year flood zone by a Federal Flood Protection System currently under construction". The protection system in place is the U.S. Army Corps of Engineers San Luis Rey River levee system that was constructed by the Corps. An Operations & Maintenance Plan has recently been permitted by the Resources Agencies. Phase 1 clearing of vegetation has begun and will be completed after September 15, 2008. When these plans are implemented, FEMA will formally revise the official flood plain mapping to indicate that the site is fully protected from the 100-year flood. It is unknown whether FEMA final certification of the levee will occur prior to project completion. If certified, it would remove the subject property from its classification within Zone A99. If not certified in a manner timely to project development, the project will need to obtain a Conditional Letter of Map Revision (CLOMR) from FEMA.

Mitigation

No mitigation is required.

H. LAND USE

Impact.

Community Commercial Designation. The proposed Development Plan meets or exceeds all City development regulations for a Community Commercial zone, including standards related to building coverage, landscaping, parking, and setbacks. The buildings along the project's eastern boundary would be approximately 100 feet from existing single-family residential development.

Draft Subarea Plan (SAP). In preserving approximately 4 acres along the site's eastern boundary, the Reduced Project/Subarea Plan Alternative would be developed in compliance with the requirements of the draft SAP. The 4 acres would remain undeveloped and be restored to serve as a functioning wildlife movement corridor and linkage for the gnatcatcher. This 100-foot wide corridor is immediately adjacent to a 100-foot-wide off-site SDG&E corridor. Combined, these would ultimately provide a 200 foot-wide corridor for gnatcatcher movement, thus meeting the goals of the Draft SAP.

The project would not physically divide an established community, as it is presently a vacant site located between industrial, commercial and residential areas. No significant impacts to land use are expected to occur with respect to the community commercial land use designation, as the project is in full compliance with all regulations. The project is also in compliance with all applicable regulations related to airport safety.

Mitigation. No mitigation is required.

- Oceanside Boulevard west of El Camino Real (LOS D)

Two intersections would operate at unacceptable levels under cumulative conditions, with or without the Pavilion at Oceanside project:

- SR 76/Rancho del Oro Drive in both peak hours (LOS F)
- SR 76/ College Boulevard in the pm peak hour (LOS E)

Existing Plus Cumulative Conditions with the Project. Analysis projected six street segments would not operate at LOS C or better due to the additional traffic of the Pavilion at Oceanside:

- Mission Avenue between the I-5 Ramps (LOS D)
- Mission Avenue between Foussat Road and El Camino Real (LOS E)
- North Douglas Drive between North River Road and Pala Road (LOS E)
- North Douglas Drive between Pala Road and El Camino Real (LOS F)
- El Camino Real between Mesa Drive and Oceanside Boulevard (LOS D)
- Oceanside Boulevard west of El Camino Real (LOS D)

As noted above, two intersections would operate at unacceptable levels under cumulative conditions, with or without the Pavilion at Oceanside project.

Horizon Year 2020 Traffic Conditions without the Project and without the off-site Pala Road extension. The following seven City of Oceanside roadway segments are projected to operate at less than LOS C:

- Mission Avenue west of the I-5 ramps (LOS D)
- Mission Avenue between the I-5 ramps (LOS E)
- Rancho del Oro Drive south of Oceanside Boulevard (LOS D)
- Oceanside Boulevard west of El Camino Real (LOS D)
- El Camino Real between Mesa Drive and Oceanside Boulevard (LOS D)
- North Douglas Drive between North River Road and Pala Road (LOS E)
- North Douglas Drive between Pala Road and El Camino Real (LOS F)

Three intersections would operate at unacceptable levels):

- Mesa Drive/El Camino Real, pm peak hour (LOS E)
- Oceanside Boulevard/El Camino Real, pm peak hour (LOS E)
- SR 76/College Boulevard, pm peak hour (LOS E)

Horizon Year 2020 Traffic Conditions with the Project and without the off-site Pala Road extension. The same seven roadway segments noted above for Horizon Year 2020 without the project are also projected to operate at less than LOS C. An additional two roadway segments would be impacted with the addition of the project:

- Mission Avenue between Foussat Road to El Camino Real (LOS F)
- El Camino Real between Los Arbolitos and Mission Avenue (LOS D)

In addition to the three intersections noted above, the Pala Road/Douglas Drive intersection is projected to operate at LOS E in the am peak hour.

Fill Haul Route Analysis. Approximately 459,000 cubic yards of material would be moved by truck to the project. One potential source of material is El Corazon. The roadway segments and intersections were analyzed with the assumption that all 459,000 cubic yards of material would come from El Corazon. All roadway segments operate at acceptable levels under existing conditions. All roadways segments are projected to operate at acceptable levels with the addition of the fill trucks except the segment El Camino Real between Mesa Drive and Oceanside Boulevard, where the LOS is projected to be reduced from LOS C to LOS D. Under the Short-Term Cumulative scenario, this segment operates at LOS D with or without this truck traffic. All intersections are forecast to operate at acceptable levels of service during the am peak. It is anticipated that all truck traffic will end prior to the pm peak.

Some material may come from sources other than El Corazon. Any material received from a different source would reduce the amount needed from El Corazon, and thereby reduce the number of truck trips from El Corazon and any impacts from that truck traffic.

For Horizon Year 2020 the following roadway segments are forecast to be significantly impacted by this project:

- Mission Avenue between Foussat Road and El Camino Real (Direct Impact)
- El Camino Real between Los Arbolitos Boulevard and Mission Avenue (Indirect Impact)
- North Douglas Drive between North River Road and Pala Road (Indirect Impact)
- North Douglas Drive between Pala Road and El Camino Real (Indirect Impact)

The following intersections are forecast to be significantly impacted by this project:

- Pala Road/ North Douglas Drive (Direct Impact)
- SR 76 / Rancho del Oro Drive (Indirect Impact)

For the import of fill, the roadway segment El Camino Real between Mesa Drive and Oceanside Boulevard is forecast to operate deficiently with the addition of the truck traffic. Under the cumulative scenario, this segment is projected to operate deficiently with or without the truck traffic moving material for the Pavilion at Oceanside.

Mitigation

Impacts caused by a project (direct impacts) are to be mitigated by that project. Impacts caused by a project and other projects (indirect/cumulative impacts) are mitigated by each project paying its proportional share (fair share).

Roadway Segments

- Mission Avenue between Foussat Road and El Camino Real (project frontage). The project will install dedicated right turn lane westbound and dual eastbound left turn lanes at the project access road to improve flow along Mission Avenue.

- El Camino Real between Los Arbolitos Boulevard and Mission Avenue. The project will contribute its Fair Share costs for the installation of a second northbound left turn lane from El Camino Real onto Los Arbolitos Boulevard, to improve northbound traffic flow on El Camino Real.

- North Douglas Drive between North River Road and Pala Road. There are significant unavoidable impacts due to right-of-way limitations associated with the existing bridge across the San Luis Rey River within this roadway segment; this is identified in the Circulation Element.

- North Douglas Drive between Pala Road and El Camino Real. The City of Oceanside's General Plan Land Use Element has noted acceptable LOS could be obtained by constructing this roadway segment as a six-lane major arterial, but due to right-of-way constraints only a four-lane major arterial can be accommodated. The segment can be improved by installation of dual northbound left turn lanes at Pala Road to improve flow on Douglas Drive will be done by the project. This improvement is also needed to mitigate project intersection impacts, and thus the project will construct this improvement.

These creative measures will improve traffic flow on these segments. At this time, the widening of SR 76 is planned by Caltrans, and that widening is assumed as being in place for analytic purposes, but funding and commencement dates have not been established.

Intersections

- SR 76/ Rancho del Oro Drive. Widening of SR 76 to six lanes would mitigate this impact. It is not known when the widening will occur. If interim measures are needed, the project will contribute its Fair Share costs for restriping the northbound approach to provide an exclusive right turn lane and right turn overlap phase, which would improve LOS to D.

- Pala Road/ North Douglas Drive. The project will modify the traffic signal and phasing to include an eastbound right-turn overlap from Pala Road onto North Douglas Drive. The project will install dual northbound left-turn lanes at Pala Road to improve traffic flow on North Douglas Drive. These measures will improve LOS to C.

The import of fill portion of the project is of short duration, but the additional truck traffic will result in a deficient level of service on the segment of El Camino Real between Mesa Drive and Oceanside Boulevard. The Short-term Cumulative analysis found the segment would operate at a deficient level with or without this truck traffic. The City of Oceanside has planned roadway improvements for segments of El Camino Real, which are expected to be completed in 2008. The City has directed this project be responsible for videotaping roadway conditions prior to and after truck activities are

completed. Project truck drivers will maintain daily logs of roadway conditions and report damages greater than normal wear and tear of the roadways. Roadway damage directly caused by the project's truck hauling activities will be the responsibility of the project applicant. Since El Camino Real is designated by the City as a truck route, normal wear and tear and damages unrelated to project traffic will not be the responsibility of the project applicant.

The length of time of impact could be lessened by extending the daily work time to eight hours (7:30 am - 3:30 pm) and by extending the work week to include Saturday (Appendix I). This would result in a total duration of approximately 44 working days over an approximately seven to eight-week period. All queuing and stacking of haul trucks will be managed on-site, at both the project site and El Corazon, to minimize impacts on public roads. This may require an extension of the driveways and stacking areas.

Impacts Not Mitigated to below a Level of Significance.

The segment of North Douglas Drive between North River Road and Pala Road shows significant impacts to traffic flow due to the constraints of the bridge over the San Luis Rey River, included in this roadway segment.

The impact of the trucks hauling material on the roadway segment of El Camino Real between Mesa Drive and Oceanside Boulevard would be a short-term impact that is not mitigated to below a level of significance.

L. UTILITIES

Impact

Natural Gas and Electricity. The proposed project will increase demand for natural gas and electricity. As the project will be able to access existing San Diego Gas and Electric utility lines, no impact to these services is anticipated.

Facilities within the 200-foot wide corridor require regular maintenance, including washing the insulators with high pressure water. Cars parked within the easement may get wet during the washing procedure. Additionally, SDG&E may need to add additional circuits and facilities within the easement (e.g., wooden poles, upgrading wooden poles to towers, replacement of individual wires, etc.). During those activities, it may be necessary to shut down parking and use of the bus stop in areas of the easement.

Telephone and Cable Television Services. Development of the proposed Pavilion Commercial Center would increase demand for telephone and cable television services. As both of these services can be provided to the project by Cox Communications, no negative impacts to either service is anticipated.

Solid Waste Disposal Service. Waste Management of North County services all of Oceanside, and will therefore provide service to the project site as well. Other than increasing demand for solid waste disposal, which can be met, the project would have no impacts on solid waste disposal service.

Natural Gas and Electricity. As natural gas and electricity services can be provided to the project through existing utility lines, no significant impacts to these services would be anticipated following project implementation. As the project has been designed to accommodate the on-going access needs of SDG&E, no significant impacts would occur with respect to the existing lines and easements.

Telephone and Cable Television Services. No significant impacts to telephone and cable television services are anticipated to result from project development.

Solid Waste Disposal Service. As solid waste disposal service will be provided to the proposed project by Waste Management of North County, no significant adverse impacts are anticipated following project implementation.

Mitigation

Natural Gas, Electricity, Telephone, Cable Television and Solid Waste Disposal Services. No significant adverse impacts to these services are associated with implementation of this project, therefore no mitigation measures are required.

CHAPTER B

LETTERS OF AND RESPONSES TO PUBLIC COMMENT

CHAPTER B

LETTERS OF AND RESPONSES TO PUBLIC COMMENTS

During the public review period which commenced May 12, 2008 and ended July 10, 2008 nine public agency comment letters, two from attorneys/legal services, and three letters from the public were received on the Pavilion at Oceanside Project DEIR (SCH No. 2006111033). Each letter is reprinted in this section along with written responses from the City of Oceanside. On the following pages, comment letters are provided on the left, with specific comments identified by number in the left-hand margin. Responses to the comments are provided on the right side of the page, and are numbered to correspond with the comment. Where similar responses were received from multiple sources, the reader is referred to the previous applicable response for detailed explanation.

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STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

ARNOLD SCHWARZENEGGER
GOVERNOR

CYNTHIA BRYANT
DIRECTOR

June 24, 2008

RECEIVED
JUN 26 2008
Planning Department

Jerry Hittleman
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054

Subject: The Pavilion at Oceanside
SCH#: 2006111033

Dear Jerry Hittleman:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on June 23, 2008, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process

Sincerely,

Terry Roberts

Terry Roberts
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Document Details Report
State Clearinghouse Data Base

SCH# 2006111033
Project Title The Pavilion at Oceanside
Lead Agency Oceanside, City of

Type EIR Draft EIR

Description Proposed 950,000 square foot community shopping center on a 90-acre site.

Lead Agency Contact

Name Jerry Hittleman
Agency City of Oceanside
Phone (760) 435-3535 Fax
email
Address 300 North Coast Highway
City Oceanside State CA Zip 92054

Project Location

County San Diego
City Oceanside
Region
Lat / Long
Cross Streets State Route 76 and Foussat Road
Parcel No.
Township Range Section Base

Proximity to:

Highways SR 76
Airports Oceanside Municipal Airport
Railways San Diego Northern
Waterways San Luis Rey River
Schools
Land Use Commercial / Community Commercial / Community Commercial

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Cumulative Effects; Flood Plain/Flooding; Geologic/Seismic; Landuse; Noise; Public Services; Sewer Capacity; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife

Reviewing Agencies Resources Agency; Regional Water Quality Control Board, Region 9; Department of Parks and Recreation; Native American Heritage Commission; Office of Historic Preservation; Department of Fish and Game, Region 5; Department of Water Resources; California Highway Patrol; Caltrans, District 11; Caltrans, Division of Aeronautics; Department of Toxic Substances Control; State Lands Commission

Date Received 05/09/2008 Start of Review 05/09/2008 End of Review 06/23/2008

Note: Blanks in data fields result from insufficient information provided by lead agency.

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

ARNOLD SCHWARZENEGGER
GOVERNOR

CYNTHIA BRYANT
DIRECTOR

June 26, 2008

Jerry Hittleman
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054

Subject: The Pavilion at Oceanside
SCH#: 2006111033

Dear Jerry Hittleman:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on June 23, 2008. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2006111033) when contacting this office.

Sincerely,

Terry Roberts

Terry Roberts
Senior Planner, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Document Details Report
State Clearinghouse Data Base

SCH# 2006111033
Project Title The Pavilion at Oceanside
Lead Agency Oceanside, City of

Type EIR Draft EIR
Description Proposed 950,000 square foot community shopping center on a 90-acre site.

Lead Agency Contact

Name Jerry Hittleman
Agency City of Oceanside
Phone (760) 435-3535 Fax
email
Address 300 North Coast Highway
City Oceanside State CA Zip 92054

Project Location

County San Diego
City Oceanside
Region
Lat / Long
Cross Streets State Route 76 and Foussat Road
Parcel No.
Township Range Section Base

Proximity to:

Highways SR 76
Airports Oceanside Municipal Airport
Railways San Diego Northern
Waterways San Luis Rey River
Schools
Land Use Commercial / Community Commercial / Community Commercial

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Cumulative Effects; Flood Plain/Flooding; Geologic/Seismic; Landuse; Noise; Public Services; Sewer Capacity; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife

Reviewing Agencies Resources Agency; Regional Water Quality Control Board, Region 9; Department of Parks and Recreation; Native American Heritage Commission; Office of Historic Preservation; Department of Fish and Game, Region 5; Department of Water Resources; California Highway Patrol; Caltrans, District 11; Caltrans, Division of Aeronautics; Department of Toxic Substances Control; State Lands Commission

Date Received 05/09/2008 Start of Review 05/09/2008 End of Review 06/23/2008

Note: Blanks in data fields result from insufficient information provided by lead agency.

Document Details Report
State Clearinghouse Data Base

SCH# 2006111033
Project Title The Pavilion at Oceanside
Lead Agency Oceanside, City of

Type EIR Draft EIR
Description Proposed 950,000 square foot community shopping center on a 90-acre site.

Lead Agency Contact

Name Jerry Hittleman
Agency City of Oceanside
Phone (760) 435-3535 Fax
email
Address 300 North Coast Highway
City Oceanside State CA Zip 92054

Project Location

County San Diego
City Oceanside
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Cross Streets State Route 76 and Foussat Road
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Reviewing Agencies Resources Agency; Regional Water Quality Control Board, Region 9; Department of Parks and Recreation; Native American Heritage Commission; Office of Historic Preservation; Department of Fish and Game, Region 5; Department of Water Resources; California Highway Patrol; Caltrans, District 11; Caltrans, Division of Aeronautics; Department of Toxic Substances Control; State Lands Commission

Date Received 05/09/2008 Start of Review 05/09/2008 End of Review 06/23/2008

Note: Blanks in data fields result from insufficient information provided by lead agency.

BRYAN C. VESS APC
ATTORNEY AT LAW

TEL (619) 795 4300
FAX (619) 795 4301
BRYAN@VESSLAW.COM

EMERALD PLAZA
402 WEST BROADWAY
SUITE 1760
SAN DIEGO, CA 92101

May 27, 2008

VIA EMAIL (jhittleman@ci.oceanside.ca.us)
AND U.S. MAIL

Jerry Hittleman, City Planner
City of Oceanside
Civic Center
300 North Coast Highway
Oceanside, California 92054

Re: Extension of Time to Comment on the Draft Environmental Impact Report for the Pavilion at Oceanside (SCH No. 2006111033)

Dear Mr. Hittleman:

This office represents a party interested in the proposed Pavilion at Oceanside project (the "Pavilion Project"). The purpose of this letter is to formally request a minimum two-week extension of time (from June 26, 2008 to at least July 10, 2008) to comment on the Draft Environmental Impact Report for the Pavilion Project (the "Draft EIR"). This extension of time is appropriate, not only because of the complexity of the Draft EIR and the critical importance of thorough review of environmental impacts associated with redeveloping a large swath of property near sensitive geographic and biological resources, but also because of the difficulty in obtaining complete notices and copies of the Draft EIR itself.

The Guidelines for the California Environmental Quality Act ("CEQA") require that in all instances, the public and interested public agencies must be afforded adequate time to review and comment on a draft EIR. (Tit. 14, C.C.R., § 15203.) Because of several extenuating factors surrounding this particular Draft EIR, an extension of time is warranted so that the public is afforded a sufficient opportunity to review and comment. For example, while portions of the Draft EIR were released by the City of Oceanside ("City") late in the afternoon on Friday, May 9, 2008, it was not until the following Monday (*i.e.*, May 12, 2008) when complete copies of the

three large Appendices volumes were provided, despite requests. Similarly, it does not appear that a Notice of Availability was properly issued by the City at the time the Draft EIR was made available, contrary the clear requirements of the CEQA Guidelines. (*See* Tit. 14, C.C.R., § 15087, subd. (a).) In fact, a copy of the Notice of Availability was not received by our clients until May 19, 2008 – an entire week after the full Draft EIR was released by the City – even though requests for a copy of that Notice had been made. As a result, it is unknown whether other interested members of the public and/or public agencies were made aware that the Draft EIR had actually been released on May 12, 2008.

Despite all these irregularities associated with the release of the full Draft EIR (a document that now consists of over six inches worth of paper), the City set June 26, 2008 as the close of the comment period – thus providing no more than exactly the 45-day minimum period established by CEQA. Yet allowing the public only the minimum time to review, digest and comment on such an important document (one that totals over 1,000 pages and took more than a year and a half to prepare) is simply contrary to the very purpose of CEQA's public comment process – affording the public an opportunity to provide meaningful public input. This is especially true for a large project such as the Pavilion Project, which will generate more than 32,000 traffic trips per day, affect wildlife corridors and attract new patrons to an area within an existing floodplain, among other things.

Given the confusion surrounding the timing and completeness of the release of the Draft EIR and the importance of carefully vetting all environmental issues associated with this large project, we request an extension of time of at least two weeks (*i.e.*, until July 10, 2008 at the earliest) for the public to submit written comments on the Draft EIR to the City. We appreciate your consideration of this matter.

Sincerely,

Bryan C. Vess

NOTICE OF AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT REPORT

City of Oceanside

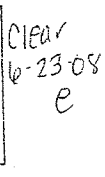
Subject: **Pavilion at Oceanside Project**; application for the development of 950,000 square foot community shopping center at the northeast corner of SR 76 and Foussat Road.

NOTICE IS HEREBY GIVEN that the City of Oceanside has caused to be prepared a Draft Environmental Impact Report (DEIR) for the subject project. The DEIR identifies potential effects with respect to traffic, biology, cultural resources, paleontological resources, noise, aesthetics, air quality, geology, hazards, hydrology/water quality, land use, public services, and utilities. The DEIR also includes proposed mitigation measures that either reduce impacts to below a level of significance or minimize identified impacts to the extent feasible. Those impacts that are not mitigated to below a level of significance are identified in the DEIR. The City's decision to prepare a DEIR should not be construed as a recommendation of either approval or denial of this project. The DEIR public review period has been extended and will be from **May 12, 2008 to July 10, 2008.** The City invites members of the general public to review and comment on this environmental documentation. Copies of the DEIR and supporting documents are available for public review and comment at the Planning Division counter located in the Civic Center at 300 North Coast Highway, Oceanside, CA 92054, or by calling Jerry Hittleman, the City's project manager at (760) 435-3520. Comments need to be directed to the same address as above.

By order of Jerry Hittleman,
City Planner

STATE OF CALIFORNIA — Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION
915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net



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6-23-08
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May 16, 2008

Mr. Jerry Hittleman, City Planner
CITY OF OCEANSIDE
300 North Coast Highway
Oceanside, CA 92054

Re: SCH#2006111033; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for The Pavilion at Oceanside Project; San Diego County, California

Dear Mr. Hittleman:

The Native American Heritage Commission is the state agency designated to protect California's Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c (CEQA guidelines). Section 15382 of the 2007 CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ...objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

√ Contact the appropriate California Historic Resources Information Center (CHRIS) for possible 'recorded sites' in locations where the development will or might occur. Contact information for the Information Center nearest you is available from the State Office of Historic Preservation (916/653-7278)/ http://www.ohp.parks.ca.gov. The record search will determine: 1.

- If a part or the entire APE has been previously surveyed for cultural resources.
- If any known cultural resources have already been recorded in or adjacent to the APE.
- If the probability is low, moderate, or high that cultural resources are located in the APE.
- If a survey is required to determine whether previously unrecorded cultural resources are present.

√ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey. 2.

- The final report containing site forms, site significance, and mitigation measurers should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for pubic disclosure.
- The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.

√ Contact the Native American Heritage Commission (NAHC) for: 3.

- A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity that may have additional cultural resource information. Please provide this office with the following citation format to assist with the Sacred Lands File search request: USGS 7.5-minute quadrangle citation with name, township, range and section:
- The NAHC advises the use of Native American Monitors to ensure proper identification and care given cultural resources that may be discovered. The NAHC recommends that contact be made with Native American Contacts on the attached list to get their input on potential project impact (APE). In some cases, the existence of a Native American cultural resources may be known only to a local tribe(s).

√ Lack of surface evidence of archeological resources does not preclude their subsurface existence. 4.

- Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
- A culturally-affiliated Native American tribe may be the only source of information about a Sacred Site/Native American cultural resource.
- Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.

1. The records search was conducted at the South Coastal Information Center in conjunction with the archaeological survey for the project consistent with the CEQA guidelines.

2. An archaeological survey was conducted for the project. The report is included as Appendix D of the EIR and its findings, including recommended mitigation measures are discussed in the DEIR, pp 89-92.

3. The archaeological consultant contacted the Native American Heritage Commission for a search of their Sacred Lands files, which indicated no record of significant Native American cultural resources in the project area. The archaeological consultant worked with representatives of the San Luis Rey Band of Luiseño Mission Indians during the archaeological survey.

4. The mitigation measures for the project include development of a pre-excavation agreement with the appropriate Luiseño tribe, implementation of a monitoring program (to include both archaeological and Native American monitors during ground disturbing activities), and curation of artifacts collected during the monitoring program. See DEIR, pp 91-92.

√ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.

- CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens. 5.

√ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony. 6.

√ Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation 7.

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,

Dave Singleton
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

5. The pre-excavation agreement will include provisions for the unanticipated discovery of human remains and the appropriate disposition of any human remains fully in accordance with CEQA guidelines and applicable law, in consultation with the appropriate tribal ancestors.

6. Comment noted. The monitors will follow all applicable procedures in the event of the discovery of human remains. See Response to Comment No. 6 above,

7. Comment noted. Both the City and the applicant have followed and will continue to follow all CEQA guidelines and applicable laws.

Native American Contacts
San Diego County
May 16, 2008

Pala Band of Mission Indians
Robert H. Smith, Chairperson
12196 Pala Mission Road, PMB 50 Luiseno
Pala , CA 92059 Cupeno
(760) 891-3500
(760) 742-1411 Fax

San Luis Rey Band of Mission Indians
Mark Mojado, Cultural Resources
1889 Sunset Drive Luiseno
Vista , CA 92081 Cupeno
(760) 724-8505
(760) 586-4858 (cell)

Pauma & Yuima
Christobal C. Devers, Chairperson
P.O. Box 369 Luiseno
Pauma Valley , CA 92061
paumareservation@aol.com
(760) 742-1289
(760) 742-3422 Fax

Cupa Cultural Center (Pala Band)
Shasta Gaughen, Assistant Director
35008 Pala-Temecula Rd.PMB Box 445 Luiseno
Pala , CA 92059
cupa@palatribe.com
(760) 742-1590
(760) 742-4543 - FAX

Rincon Band of Mission Indians
Angela Veltrano, Rincon Culture Committee
P.O. Box 68 Luiseno
Valley Center , CA 92082
council@rincontribe.org
(760) 749-1051
(760) 749-8901 Fax

Mel Vernon
San Luis Rey Band of Mission Indians
1044 North Ivy Street Luiseno
Escondido , CA 92026
melvern@aol.com
(760) 746-8692
(760) 703-1514 - cell

San Luis Rey Band of Mission Indians
Carmen Mojado, Co-Chair
1889 Sunset Drive Luiseno
Vista , CA 92081
cjmojado@slrmissionindians.org
(760) 724-8505

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2006111055; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for The Pavilion at Oceanside Project; City of Oceanside; San Diego County, California.

SCH# 2006111055

DEPARTMENT OF TRANSPORTATION
DIVISION OF AERONAUTICS – M.S.#40
1120 N STREET
P. O. BOX 942873
SACRAMENTO, CA 94273-0001
PHONE (916) 654-4959
FAX (916) 653-9531
TTY (916) 651-6827

Flex your power!
Be energy efficient!

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May 22, 2008

Mr. Jerry Hittleman
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054

Dear Mr. Hittleman:

City of Oceanside's Draft Environmental Impact Report for The Pavilion at Oceanside;
SCH# 2006111033

The California Department of Transportation (Caltrans), Division of Aeronautics (Division), reviewed the above-referenced document with respect to airport-related noise and safety impacts and regional aviation land use planning issues pursuant to the California Environmental Quality Act (CEQA). The Division has technical expertise in the areas of airport operations safety, noise and airport land use compatibility. We are a funding agency for airport projects and we have permit authority for public and special use airports and heliports. The following comments are offered for your consideration.

The proposal is for development of a 950,000 square foot shopping center on a 92-acre site. The project includes a Tentative Parcel Map, Development Plan, five Conditional Use Permits for a movie theater, health club, and three drive-through uses, and an Underground Waiver request for the existing high-voltage electrical transmission lines located on the site.

8.

The project site's western boundary is located approximately 920 feet east of the Oceanside Municipal Airport, with portions of the project site beneath the extended runway centerline. The project site will be subject to aircraft overflights and subsequent aircraft-related noise and safety impacts.

According to the Draft Environmental Impact Report (DEIR) Executive Summary, page S-1, a project objective is "to create a development that is compatible with and does not interfere with the safety and function of the Oceanside Municipal Airport." We concur with that objective.

Oceanside Municipal Airport is an economic asset that must be protected through effective airport land use compatibility planning and awareness. Consideration given to the issue of compatible land uses in the vicinity of the airport should help to relieve future conflicts between it and its neighbors.

Protecting people and property on the ground from the potential consequences of near-airport aircraft accidents is also a fundamental land use compatibility-planning objective. While the chance of an aircraft injuring someone on the ground is historically quite low, an aircraft accident is a high consequence event. To protect people and property on the ground from the risks of near-airport aircraft accidents, some form of restrictions on land use are essential. The two principal methods for reducing the risk of injury and property damage on the ground are to limit the number of persons in an area and to limit the area covered by occupied structures. The potential severity of an off-airport aircraft accident is highly dependent upon the nature of the land use at the accident site.

8. The summary and overview statements regarding compatible land uses surrounding general aviation airports are accurate. As you note, one of the identified DEIR Project objectives is directed at land use and safety compatibility with the airport. The DEIR frequently addresses and evaluates the potential for conflict (See DEIR Summary at Pages S-1, S-2, S-14 and 15, DEIR Pages 98-104 and Appendix F). As your letter points out, there are actually two distinct components: (1) land use compatibility (e.g. safety and noise) based on the adopted Comprehensive Land Use Plan ("CLUP") for Oceanside Municipal Airport (last amended 2004) adopted pursuant to California Law and (2) Federal Aviation Administration (FAA) Part 77 "Objects Affecting Navigable Airspace" overflight protection (prohibiting structures penetrating into operative airspace corridors). Both elements are fully addressed in the DEIR.

The Caltrans Airport Land Use Planning Handbook identifies six airport safety zones based on risk levels. Portions of the project site appear to be within the Runway Protection Zone (RPZ), the Inner and Outer Approach and Departure Zones, the Inner Turning Zone, and the Traffic Pattern Zone for Oceanside Municipal Airport as defined in the Handbook. The RPZ is the most critical of the airport safety zones, considered to be at "very high risk" due its proximity to the end of the runway. Just beyond the RPZ is the Inner Approach and Departure Zone, which is considered to be at "substantial risk". The RPZ together with the inner safety zones encompass 30 to 50 percent of the near-airport aircraft accident sites.

The portion of the project site within the RPZ is identified in Figure II-3 of the DEIR as "City-owned parcel." According to page S-2 of the DEIR, this 1.92-acre parcel will be used parking, landscaping, signage purposes, and a future well. Please note, the Federal Aviation Administration's (FAA) Airport Design Guide, Advisory Circular 150/5300-13, contains guidance pertaining to land uses within the RPZ. As part of FAA grant assurances, if an airport sponsor receives federal funds for an airport, it is required that use of land adjacent to or in the immediate vicinity of the airport be restricted to activities and purposes compatible with normal airport operations. 9.

Within the Inner Approach and Departure Zone and the Inner Turning Zone, the Handbook generally recommends avoiding uses which have moderate or higher usage intensities.

The Oceanside Municipal Airport Land Use Compatibility Plan (ALUCP) is intended to "preclude incompatible development from intruding into areas of significant risk resulting from aircraft takeoff and landing patterns." The ALUCP has designated "Flight Activity Zones" to identify the risk areas. Appendix F of the DEIR includes a copy of San Diego County Airport Land Use Commission's (ALUC) April 5, 2007 determination that the proposal was "conditionally consistent" with the ALUCP. 10.

California Public Utilities Code Section 21659 prohibits structural hazards near airports. The ALUCP also requires compliance with Federal Aviation Regulation (FAR) Part 77 "Objects Affecting Navigable Airspace." The DEIR, page 102, states that a mitigation measure will require "evidence of compliance with any imposed height limitations or other FAA overflight safety requirements." Appendix F of the DEIR includes two letters from a consulting firm concerning the "airspace impact analysis" for the project site. The proposal will still require submission of Notice of Proposed Construction or Alterations (Form 7460-1) to the FAA in accordance with FAR Part 77. Form 7460-1 is available on-line at https://oeaaa.faa.gov/oeaaa/external/portal.jsp and should be submitted electronically to the FAA. The location and type of trees is also a potentially significant concern. The RPZ and the Inner Approach and Departure Zones are areas where aircraft fly at low altitudes. Selection of a species of tree that does not grow taller than the buildings is strongly recommended, so the maturing trees do not become penetrations to the FAR Part 77 imaginary surfaces and potential hazards to aircraft operating to and from the airport. 11.

The proposal should also be coordinated with Oceanside Municipal Airport staff to ensure that the proposal will be compatible with future as well as existing airport operations. 12.

9. The Caltrans Airport Land Use Planning Handbook ("Handbook") is intended as a guide to be considered in the adoption of Comprehensive Land Use Plans and in potential future Comprehensive Land Use Compatibility Plans to be adopted by the applicable Airport Land Use Commission for the affected area. Note: In San Diego County, as a result of special State Legislation, the San Diego Regional Airport Authority ("Authority") acts as the Airport Land Use Commission and the Authority looks to the Handbook for guidance in its actions. The City also recognizes that FAA airport grants often come with conditions regarding the ownership and operation of the airport. Your letter does not identify any specific inconsistencies; as you note, the RPZ area City-owned parcel will have no structures, but its uses will be restricted to landscaping, parking and a City owned groundwater well (the well is not part of the project area). These very restrictive low-intensity uses of the RPZ area are fully consistent with the CLUP. Further, as you will note, the overall Project design fully recognizes the airport proximity and associated flight patterns by moving the buildings generally away from the southwestern corner of the project and out from under the "extended runway centerline."

10. As a point of clarification, the Authority has not adopted an "Airport Land Use Compatibility Plan" for Oceanside Municipal Airport. The CLUP, as amended by the Authority in 2004, remains the controlling "plan" against which the Project is evaluated for consistency. Further, as you note, the City submitted the Project to the Authority for a "consistency" determination, and on April 5, 2007 the Authority adopted its Resolution finding the Project "conditionally consistent"...the conditions being that the project layout, elevations, footprint and site configuration not substantially change and the formal FAA airspace letter of compliance be subsequently obtained confirming that no impermissible airspace obstructions are present.

Business and Professions Code Section 11010 and Civil Code Sections 1102.6, 1103.4, and 1353 address buyer notification requirements for lands around airports and are available on-line at http://www.leginfo.ca.gov/calaw.html. Any person who intends to offer subdivided lands, common interest developments and residential properties for sale or lease within an airport influence area is required to disclose that fact to the person buying the property. 13.

These comments reflect the areas of concern to the Division of Aeronautics with respect to airport-related noise and safety impacts and regional airport land use planning issues. We advise you to contact our district 11 office concerning surface transportation issues.

Thank you for the opportunity to review and comment on this proposal. If you have any questions, please call me at (916) 654-5314.

Sincerely,

Original Signed by

SANDY HESNARD
Aviation Environmental Specialist

c: State Clearinghouse, Oceanside Municipal Airport. San Diego County ALUC, FAA

11. The official FAA Part 77 compliance determination is a requirement prior to issuance of the building permit (See DEIR page 102) and will necessitate detailed architectural/building, lighting and landscaping plans be submitted to the FAA for approval. The final Mitigation and Monitoring Report ("MMRP") and Project conditions will also include the specific requirement of submitting the "Notice of Proposed Construction or Alterations (Form 7460-1) as you suggest for final FAA approval of height of structures, landscape, lighting and other final design elements.

12. The City of Oceanside is the owner/operator of the airport, please be assured that the Project has been reviewed by all City departments, including but not limited to the airport staff and the project will be consistent with existing and future airport operations.

13. For point of clarification, there is no residential component or any residential mixed use component of the Project. However, to the extent that the referenced code sections are applicable to commercial retail leases, the Project will be required to include airport proximity notifications in its leases.

Linda S. Adams
Secretary for
Environmental Protection

Department of Toxic Substances Control

Maureen F. Gorsen, Director
5796 Corporate Avenue
Cypress, California 90630

Arnold Schwarzenegger
Governor

June 4, 2008

Mr. Jerry Hittleman
City Planner
City of Oceanside, Planning Division
300 North Coast Highway
Oceanside, California 92054

DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE PAVILLION AT OCEANSIDE PROJECT (SCH# 2006111033)

Dear Mr. Hittleman:

The Department of Toxic Substances Control (DTSC) has received your submitted Notice of Preparation of a Supplemental EIR for the above-mentioned project. The following project description is paraphrased from your document: "The proposed project area is an approximately 92-acre parcel in the City of Oceanside, north of Mission Avenue and SR76, and immediately east of Foussat Road. It is proposed to build a 950,000 square foot community shopping center consisting of a variety of unique shops, dining establishments and entertainment venues."

Based on the review of the submitted document DTSC has the following comments:

1) The EIR should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC would require an oversight agreement in order to review such documents. Please see comment No. 9 below for more information. 14.

2) If any property adjacent to the project site is contaminated with hazardous chemicals, and if the proposed project is within 2,000 feet from a contaminated site, then the proposed development may fall within the "Border Zone of a Contaminated Property." Appropriate precautions should be taken prior to construction if the proposed project is within a Border Zone Property.

3) The project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions

14. As detailed in Chapter IV.F of the DEIR (Hazards and Hazardous Materials), a *Phase I Environmental Assessment* was conducted in 2005, a *Limited Phase II Environmental Assessment* was prepared in 2007, and a *Second Revised Report for Additional Testing and Proposed Location for Placement of Dieldrin/Toxaphene Affected Soil* was completed in 2008. These studies, included in Appendix F to the DEIR, and provided the technical information for the DEIR analysis. Mitigation measures were incorporated into the DEIR and the Mitigation, Monitoring, and Reporting Program (MMRP) to reduce potential impacts to below a level of significance.

(LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination.

4) Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. If it is found necessary, a study of the site and a health risk assessment overseen and approved by the appropriate government agency and a qualified health risk assessor should be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.

5) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5).

6) If it is determined that hazardous wastes are or will be generated and the wastes are (a) stored in tanks or containers for more than ninety days, (b) treated onsite, or (c) disposed of onsite, then a permit from DTSC may be required. If so, the facility should contact DTSC at (714) 484-5423 to initiate pre-application discussions and determine the permitting process applicable to the facility.

7) If it is determined that hazardous wastes will be generated, the facility should obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942.

8) If during construction/demolition of the project, the soil and/or groundwater contamination is suspected, construction/demolition in the area would cease and appropriate health and safety procedures should be implemented.

9) Envirostor (formerly CalSites) is a database primarily used by the California Department of Toxic Substances Control, and is accessible through DTSC's website. DTSC can provide guidance for cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA please see www.dtsc.ca.gov/SiteCleanup/Brownfields, or contact Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489 for the VCA.

10) In future CEQA documents please provide the contact person's e-mail address.

If you have any questions regarding this letter, please contact Ms. Eileen Khachatourians, Project Manager, at (714) 484-5349 or email at EKhachat@dtsc.ca.gov.

Sincerely,

Greg Holmes
Unit Chief
Brownfields and Environmental Restoration Program- Cypress

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044

CEQA Tracking Center
Department of Toxic Substances Control
Office of Environmental Planning and Analysis
1001 I Street, 22nd Floor, M.S. 22-2
Sacramento, California 95814

CEQA# 2174

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June 18, 2008

File Number 7000300

RECEIVED
JUN 19 2008
Planning Department

Mr. Jerry Hittleman
Planning Division
City of Oceanside
300 N. Coast Highway
Oceanside, CA 92054

Dear Mr. Hittleman:

SUBJECT: Pavilion at Oceanside Draft Environmental Impact Report (DEIR)

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Pavilion at Oceanside project, which proposes approximately 950,000 square feet of retail on a 92-acre site at the northeast corner of Foussat Road and State Route (SR) 76 in the City of Oceanside.

Our comments are based on policies included in the Regional Comprehensive Plan (RCP), the Regional Transportation Plan (RTP), and the Congestion Management Program (CMP), and are submitted from a regional perspective emphasizing the need for land use and transportation coordination and implementation of smart growth principles.

Transportation Analysis

The 2030 RTP provides a multimodal approach to meet the region's transportation needs. As such, it is requested that the traffic analysis for this project consider balancing the needs of motorists, transit riders, pedestrians, and bicyclists. Please address the following in the Transportation section of the EIR and in the Traffic Study.

General EIR Issues:

The EIR should address the following:

1. Address potential impacts to nearby segments of SR 76 and perform analysis required according to the CMP guidelines (attached). Although the EIR addresses intersection function, it does not directly state impacts to SR 76 or propose mitigation. The applicant should also contact Caltrans to coordinate planned highway improvements.

15.

15. A roadway segment analysis based on traffic speed and density was conducted for SR-76. The results of this analysis are summarized in Tables 28 through 33 of the Traffic Impact Analysis (TIA). The results of the analysis show that most segments of SR-76 operate at LOS D or better under existing and short-term conditions without the project. The segment of SR-76 from Old Grove Road to Rancho Del Oro operates at LOS E in the a.m. peak under short-term conditions. The addition of project generated trips results in a change in speed of less than 2.0 miles per hour, which does not change the LOS from the existing "E." Therefore, the impacts to this segment are not significant. As discussed on page 161 of the DEIR, Caltrans has designated the existing LOS E to be acceptable on SR 76 between Douglas Drive and Melrose Drive in the a.m. peak hour.

2. Address existing and planned transit by identifying the transit mode share (bus, light rail, and/or commuter rail) as a share of total project trips, showing existing and planned transit stop locations within/adjacent to the proposed project, and stating any traffic delay to bus service resulting from the proposed project. This analysis is desired as a reference to help quantify potential impacts on the transit system. The applicant should consult with the North County Transit District (NCTD), the transit service provider within the project area, to determine appropriate service changes in the vicinity. 16.

3. In considering mitigation for regional transportation impacts, please coordinate with NCTD to create alternatives to driving alone during peak periods. Retail employees may be especially likely to take advantage of discounted/free transit passes and other measures such as carpooling and vanpooling. Please assess the potential of a Transportation Demand Management (TDM) plan as a part of this EIR. 17.

4. This project includes/is adjacent to the San Luis Rey River bike path and bike lanes along SR 76 and could be an important destination for local transit (pending discussions with NCTD). Improved bicycle access to local destinations can help to mitigate the traffic effects of projects and provide mobility options for those who work/shop at this facility. Please consider including access to/from this project along these major bike routes. For more information on integrating bicycle access into the project, please contact Chris Kluth at SANDAG at (619) 699-1952. 18.

Specific EIR Issues:

In addition to the above, please address the following issues with specific sections of the EIR:

1. Page 157 – The Transportation/Traffic Section of the EIR states that Horizon Year analysis has been done as if the improvements listed in the City's General Plan were built. Accordingly, the Traffic Study assumes widening of SR 76 to three lanes in each direction between Interstate 5 and Melrose Drive. 19.

   When analyzing future traffic conditions, SANDAG recommends using the transportation network included in the Regional Transportation Plan (RTP) Reasonably Expected funding scenario. The current RTP, which governs improvements to the regional transportation system, does not include these plans in its Reasonably Expected Revenue Scenario. The inclusion of this planned improvement may lead to erroneous conclusions; therefore, it should not be accounted for in the traffic analysis for this project. Please revise the traffic study/EIR to reflect the RTP network.

16. Existing transit service is described on page 24 of the TIA and pages 153-54 of the DEIR. The applicant, traffic consultant and City staff met with NCTD during project design and review to discuss future transit service and location of transit stops specific to this project. The onsite bus stop as a component of the project is addressed on page 12 of the DEIR. It is recognized that this shopping center will be a focal point for City and North County activity, and providing the bus transit stop within the project will be an asset to the Center as well as the large ridership base that uses the Mission Avenue transit corridor. It can also be a great benefit to future workers on the site who don't want to drive to work. For the Subarea Plan Alternative, the bus stop, which can accommodate up to 4 buses at one time, is located at the southeast corner of the main pedestrian promenade to conveniently allow bus passengers direct access to this area, which also provides connections to other areas within the overall center, and gives the buses a direct route in and out of the center to this onsite bus stop. It has been designed such that buses can enter and exit the shopping center at the Mission Avenue signalized intersection, to most efficiently continue through route service along this transportation corridor.

    No trip reduction factors for public transit were included in the TIA in order to maintain a conservative analysis of the project-related traffic impacts.

17. The project team met with NCTD to discuss potential Transportation Demand Management programs for the site. It is acknowledged that there are options for TDM measures, particularly with initiation of Sprinter service in the area, but no such measures were assumed in order to maintain a conservative analysis of the project-related traffic impacts.

18. Please see the discussion of the bike trail on page 11 and in Figure III.B-10 of the DEIR. Bicycle lanes will be provided along Foussat Road and connections to the San Luis Rey bicycle trail will be provided at the signalized intersection of Foussat Road and the northern project entry point. A bicycle trail will also be provided along the project frontage parallel to Foussat Road as illustrated on the project site plan. Additional bicycle facilities, such as bicycle racks, will be provided on site.

2. Page 161 – The maximum acceptable Level of Service (LOS) for a highway segment that is included in the CMP is LOS E. Any segment operating at LOS F is deficient. Please revise the traffic study/EIR using the CMP guidelines (attached). 20.

3. Page 165 – Please revise this diagram to show impacts to segments of SR 76. 21.

Conclusion

We appreciate the opportunity to comment on this project. If you have any questions or concerns regarding my comments on this project, please contact me at (619) 699-7336 or tcl@sandag.org.

Sincerely,

TRAVIS CLEVELAND
Regional Planner

TCL/sgr

Attachment: CMP Guidelines for Enhanced CEQA Review

19. At the time the TIA for the project was prepared, the RTP included SR-76 as a six-lane facility, as it has for many years. The City of Oceanside includes SR-76 as a six-lane facility in their Circulation Element. During the preparation of the EIR, the updated RTP was released, which included SR-76 as a four-lane facility, notwithstanding the long-term plans and history of this route being shown as a six-lane facility. Since the City of Oceanside is the lead agency on this project, the TIA includes SR-76 as a six-lane facility which is consistent with their General Plan Circulation Element.

20. The LOS E criteria cited in the 2006 CMP Update relates to analysis based on the Conventional Highway methodology. This methodology categorizes LOS based on speed and density, not V/C ratio. The TIA includes this analysis in Tables 28 through 33. The results are clarified in an Addendum to the TIA as attached to these responses to comments.

21. According to the analysis conducted in Tables 28 through 33 of the TIA, the project does not result in any significant impacts to SR-76. See Response to Comment No. 12.

CHAPTER 4
LAND USE ANALYSIS PROGRAM

CHAPTER 4
LAND USE ANALYSIS PROGRAM

INTRODUCTION

The California Environmental Quality Act (CEQA) requires that all jurisdictions in the State of California evaluate the potential environmental impacts caused by new development or projects. If impacts are identified, then potential mitigation measures are evaluated and recommended. CMP enabling legislation requires that SANDAG develop a process to evaluate and mitigate the impacts of new development on the CMP system that is based on the existing CEQA review process. This process, called the Enhanced CEQA Review, is presented in this chapter along with a discussion of available resources to identify and mitigation current and future congestion.

ENHANCED CEQA PROJECT REVIEW

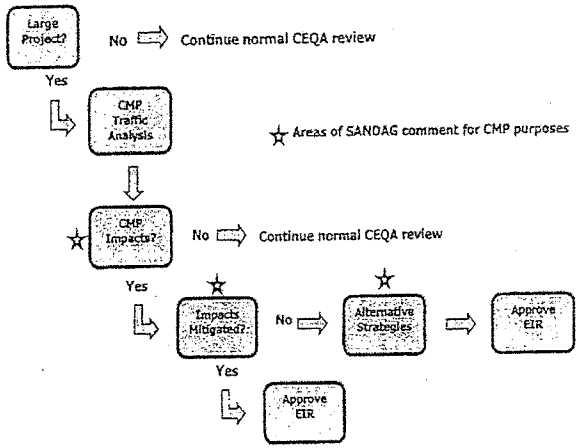
An enhanced CEQA review process has been established for use by local jurisdictions and/or project sponsors to conduct traffic impact studies and provide mitigation for new large project impacts on the CMP transportation system. Local agencies are required to adopt and continually implement this enhanced CEQA review process. The key features of this process include:

- A large project is defined as generating, upon its completion, an equivalent of 2,400 or more average daily vehicle trips or 200 or more peak-hour vehicle trips.
- The review is to include a traffic impact analysis (Traffic Impact Study - TIS) and mitigation for project impacts to the regional transportation system. The current Traffic Impact Study guidelines are provided in Appendix D.
- The traffic impact analysis must identify the project's impacts on the CMP transportation system, their associated costs, and appropriate mitigation.
- Early project coordination with affected public agencies and transportation operators is required.
- Local agencies are to coordinate with the Metropolitan Transit System and the North County Transit District to ensure that transit operators evaluate the impact of new development on CMP transit performance measures.

State regulation requires that all environmental documents prepared for projects in the San Diego region be submitted to the State Clearinghouse, and the State Clearinghouse in turn advises SANDAG of documents it has received. In many instances projects sponsors also send a copy of environmental documents directly to SANDAG. Under its regional intergovernmental review program, SANDAG reviews and comments on environmental documents submitted by various agencies. As part of that process, the documents are reviewed to ensure that the enhanced CEQA

review process is followed for large projects, and the results of the required traffic analyses and identified mitigation measures are adequate. Comments, when appropriate, are submitted to the lead agency for the environmental review. The overall CMP Enhanced CEQA Review Process in summarized below.

Exhibit 4-1
CMP Enhanced CEQA Review Process



It is the goal of the CMP to ensure appropriate mitigation of significant new large project impacts on the CMP system through use of congestion management strategies (CMP roadway or transit improvements and/or non-traditional approaches, such as Transportation Demand Management) contained within the CMP, including specific strategies identified in adopted Deficiency Plans. For the purpose of meeting CMP requirements, these guidelines do not apply to mitigation which would necessitate construction of freeway improvements, including interchanges until such time that Deficiency Plans have been prepared and adopted identifying specific improvements necessary to bring the freeway segments into conformance with the CMP LOS standard. Mitigation of project impacts may include demand management strategies and/or fair share contributions toward future improvements to be identified with the Deficiency Plan. The Deficiency Plans will identify potential funding sources to implement the recommended improvements including, but not limited to federal, state, local, and private funding sources. The preceding restriction regarding freeway improvements applies only to the CMP project review process and is not intended to limit a local jurisdiction's responsibility under CEQA for ongoing review and mitigation for projects that would impact freeways.

The following guidelines are provided to assist in meeting this goal.

New Large Project – A new development project generating, upon its completion, an equivalent of 2,400 or more new average daily vehicle trips, or 200 or more new peak-hour vehicle trips.

Significant Impacts – An increase in traffic on the CMP system generated by the project that exceeds the standards summarized below which are provided in the Traffic Impact Studies Guidelines (See Table D-1 in Appendix D for a further explanation on how to use these standards).

Level of Service with Project	Allowable Change due to Project Impact					
	Freeways[1]		Roadway Segments		Intersections	Ramp Metering[1]
	V/C	Speed (mph)	V/C	Speed (mph)	Delay (sec.)	Delay (min.)
D, E, & F (or ramp meter delays above 15 min.)	0.01	1	0.02	1	2	2

[1] *These guidelines apply only to freeways with adopted Deficiency Plans.*

Project Mitigation – Actions necessary to reduce the project impacts on the CMP system to or below the standards summarized. The following section provides additional guidance on project mitigation strategies.

RESOURCES TO ADDRESS CONGESTION

One of the ways in which the CMP can address congestion is to provide the tools necessary to identify, quantify, and mitigate current and future congestion. This section summarizes a number of tools currently available to address congestion and provides information on how to obtain more information in the following categories:

- Traffic Impact Study Guidelines
- Project Design Guidelines
- Congestion Mitigation Strategies

Traffic Impact Study Guidelines

SANDAG, in cooperation with the San Diego Traffic Engineer's Council, SANTEC, has developed Traffic Impact Studies (TIS) Guidelines to assist local agencies and private developers in evaluating the traffic and transit impacts a development will have on the existing and future circulation infrastructure. The purpose of the TIS is to assist engineers in both the development community and public agencies in making land use and other development decisions. A TIS quantifies the changes in traffic levels and translates these changes into transportation system impacts in the vicinity of a project.

TIS requirements are usually outlined as part of any environmental (CEQA) project review process; and, in order to monitor effects by these requirements, Notices of Preparation must be submitted to all affected agencies. In addition, the Land Use Analysis Program of the Congestion Management Program requires that an "enhanced CEQA review" be undertaken to evaluate the impacts of large projects on the regional transportation system. These guidelines are intended to provide guidance to local jurisdictions and/or project sponsors in meeting these CMP requirements. The most current TIS guidelines are provided in Appendix D.

Project Design Guidelines

In support of the CMP and other planning activities, project design guidelines to promote alternative travel modes including walking, bicycle, ridesharing, and public transit have been prepared. The available guidelines are listed below and are available for local agency use in mitigating the impacts of new development projects and in preparing CMP Deficiency Plans.

- "Designing for Transit" (Metropolitan Transit Development Board – July 1993)
- "Urban Form Chapter – Regional Comprehensive Plan" (San Diego Association of Governments – July 2004)
- "Tools for Reducing Vehicle Trips Through Land Use Design" (San Diego County Air Pollution Control District – January 1998)
- "Bikeway Planning and Design – California Highway Design Manual" (Caltrans – February 2001)
- "Planning and Designing For Pedestrians" (San Diego Association of Governments – June 2002)
- "Context Sensitive Solutions in Designing Major Urban Thoroughfares for Walkable Communities: An ITE Proposed Recommended Practice" (Institute of Transportation Engineers – 2006)

Congestion Mitigation Strategies

In 2003 SANDAG conducted a study (Congestion Mitigation Strategies Research) to identify additional strategies for use in mitigating congestions. The research focused on the three following areas:

- Congestion Mitigation Toolbox
- Model Trip Reduction Ordinance Framework
- Trip Reduction Guidelines

The results of the Congestion Mitigation Strategies research are summarized below. Full copies of the final report are available on the SANDAG website (http://www.sandag.org) or by contacting SANDAG (619) 699-1900.

Congestion Mitigation Toolbox – Provides a compendium of transportation related strategies designed to assist local agencies in mitigating the impacts of congestion due to growth in population, employment, and traffic and as a result of new developments. The Toolbox contains 40 strategies for potential use in reducing traffic congestion based upon national research and local agency input. The manner in which these strategies can be used to address congestion is illustrated in Exhibit 4-1. A list of the strategies is provided in Exhibit 4-3 and includes a wide range of

strategies allowing local agencies to choose, at their own discretion, the best strategy or combination of strategies suitable to local congestion issues and agency resources. The strategies are grouped into five broad categories (transit, land use, Transportation Demand Management (TDM), Transportation Systems Management (TSM), and capital) and support at least one of the following objectives:

- Increase transportation system capacity.
- Increase transportation system performance.
- Encourage use of other travel modes.
- Shift peak-period trips to other time periods.
- Reduce vehicle trips.

For each strategy, information is provided on strategy effectiveness, local applicability, implementation requirements, costs, and other related strategies. References also are provided, should additional research be needed. These strategies will be updated based upon actual use and additional strategies may be added in the future.

Exhibit 4-2
Overview of Mitigation Toolbox

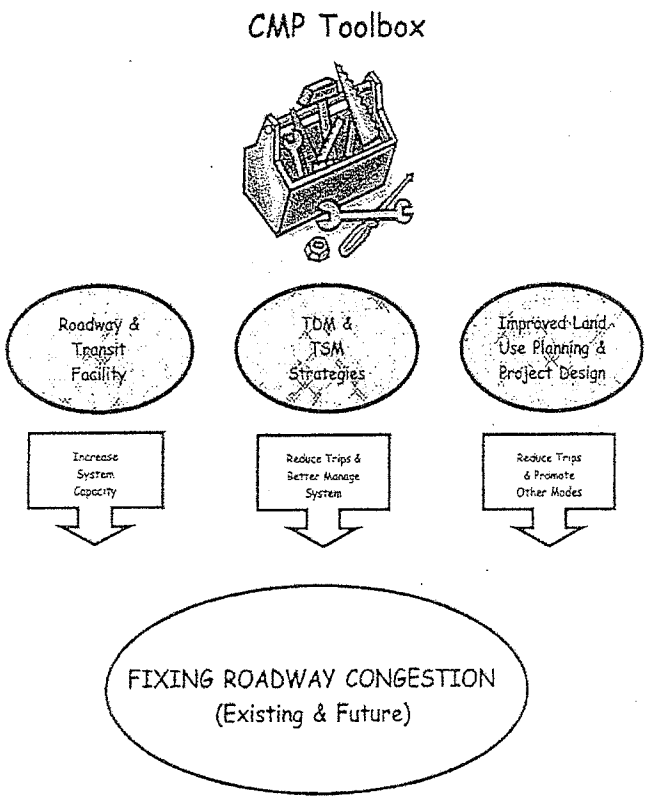


Exhibit 4-3
Summary of Congestion Mitigation Strategies

Category	No.	Strategy	Congestion Mitigation Objective				
			Increasing the Transportation System Capacity	Improving the Transportation System Performance	Effecting a Mode Shift Away From Drive Alone	Shifting Trips to Other Time Periods	Vehicle Trip Reductions
Transit	1-1	Access to Light Rail/Commuter Rail/ Bus Rapid Transit (BRT)			X		
	1-2	Transit System/Service Expansion • Local • Express	X		X		
	1-3	System/Service Operational Improvements • Increased Service Frequency • Decreased Travel Time	X	X	X		
	1-4	Subscription Services	X		X		
	1-5	Car Sharing			X		
	1-6	Station Amenities & Public Transit Facility Improvements			X		
Land Use	2-1	Development Along Transit Corridors			X		
	2-2	Development Around Transit Nodes			X		
	2-3	Mixed-Use Developments					X
	2-4	Locally Serving Commercial					X
	2-5	Interconnected Street Networks & Pedestrian Facilities					X
Travel Demand Management (TDM)	3-1	On-Site Child Care/Cafeteria/Deli/ Gym/Fitness Facilities			X		X
	3-2	Transit/Alternative Modes Marketing			X		X
	3-3	Trip Reduction Programs & Ordinances					X
	3-4	Transportation Management Associations			X	X	X
	3-5	Bicycle/Pedestrian Allowances			X		X
	3-6	Distributed & Remote Work Centers/ Video Conferencing				X	X
	3-7	Alternative Work Schedules/Telework/ Work-at-Home				X	X
	3-8	Carpool/Vanpool/Transit Programs			X		
	3-9	Carpool/Vanpool Subsidies			X		
	3-10	Parking Restrictions/Reduced Minimums and Maximums/Areawide Caps			X		X
	3-11	Parking Charges & Carpool/Vanpool Preferential Parking			X		X
	3-12	Transit Pass Subsidies			X		
	3-13	Guaranteed Ride Home Program			X		

Exhibit 4-3 (Cont.)
Summary of Congestion Mitigation Strategies

Category	No.	Strategy	Congestion Mitigation Objective				
			Increasing the Transportation System Capacity	Improving the Transportation System Performance	Electing a Mode Shift Away From Drive Alone	Shifting Trips to Other Time Periods	Vehicle Trip Reductions
Traffic Systems Management (TSM)	4-1	Improved Traffic Control Devices					
		• Traffic Signal Coordination		X			
		• Adaptive Signal Control					
		• Signage Improvements					
	4-2	Local Traffic Management (Monitoring and Control) & Arterial Monitoring		X			
	4-3	Special Event Management		X			
	4-4	Incident Management		X			
	4-5	Commercial Vehicle Restrictions		X			
	4-6	Advanced Traveler Information		X			
	4-7	Value/Congestion Pricing		X			
	4-8	Peak Period On-Street Parking Restrictions	X	X			
Capital	5-1	Park & Ride Lots (Transit)			X		
	5-2	HOV/HOT Lanes/Access			X		
	5-3	Roadway Widening	X				
	5-4	Intersection Improvements	X				
	5-5	Bicycle Facilities			X		
	5-6	Pedestrian Facilities			X		
	5-7	Bus Priority Treatments on Surface Streets			X		
	5-8	Grade Separation/Urban Interchange		X			

Model Trip Reduction Ordinance Framework – The purpose of the Model Trip Reduction Ordinance (TRO) Framework is to provide local agencies with a consistent process and format to prepare and adopt a TRO. Research has shown that TROs are effective in helping reduce trips generated by new development. The general process to prepare a TRO, along with two sample model TRO approaches, mandatory and voluntary, is provided in the full report. The model TROs are structured so that local agencies can modify each document as local needs and conditions dictate. Exhibit 4-4 summarizes the eleven (11) step process to develop a TRO. A decision whether to prepare a TRO is solely at the discretion of local agencies.

Trip Reduction Guidelines – The current CMP Traffic Impact Analysis (TIS) Guidelines provide a consistent methodology for evaluating the traffic impacts of new development projects on the CMP system. However, additional guidance is needed to evaluate smart growth developments and alternative project mitigation measures. The new Trip Reduction Guidelines provide supplemental methodologies and specific guidelines for incorporating selected Congestion Mitigation Toolbox strategies into the traffic impact assessment process and estimating their effectiveness in terms of associated trip reduction potential. Trip Reduction Guidelines are intended for use for the following categories of Congestion Mitigation Toolbox strategies:

- Development near transit stations and transit corridors.
- Mixed-use developments.
- Transit service and operational enhancement strategies.
- Travel Demand Management (TDM) programs.

Local jurisdictions may use the Trip Reduction Guidelines in a similar manner as they use the existing SANDAG CMP TIS Guidelines. The relationship between the new Trip Reduction Guidelines and the existing Traffic Impact Study Guidelines is shown in Exhibit 4-5. When combined with the other components of the CMS Project, a local jurisdiction can use the Trip Reduction Guidelines to provide incentives for developers to include congestion mitigation strategies into their proposed developments, or to recognize successful existing Travel Demand Management (TDM) programs. The Trip Reduction Guidelines also include options for local jurisdictions to require ongoing traffic monitoring as a condition of project approval and use of congestion mitigation strategies. Ongoing monitoring of applied congestion mitigation strategies is important to help build a solid database of local information about the effectiveness of congestion mitigation strategies applicable to the San Diego region. The Trip Reduction Guidelines can be revised in the future, as needed, to more accurately reflect local experience and traffic conditions.

In addition, it should be noted that the local agencies and the California Department of Transportation (Caltrans) may use different trip reduction rates. For projects that may impact the state highway system early consultation by a project developer with local agencies and Caltrans is strongly recommended. Caltrans and lead agencies should agree on the specific methods using traffic impact studies involving any state highway facilities, including metered and unmetered freeway ramps.

Exhibit 4-4
Step-wise Approach for Creating a Local Trip Reduction Ordinance

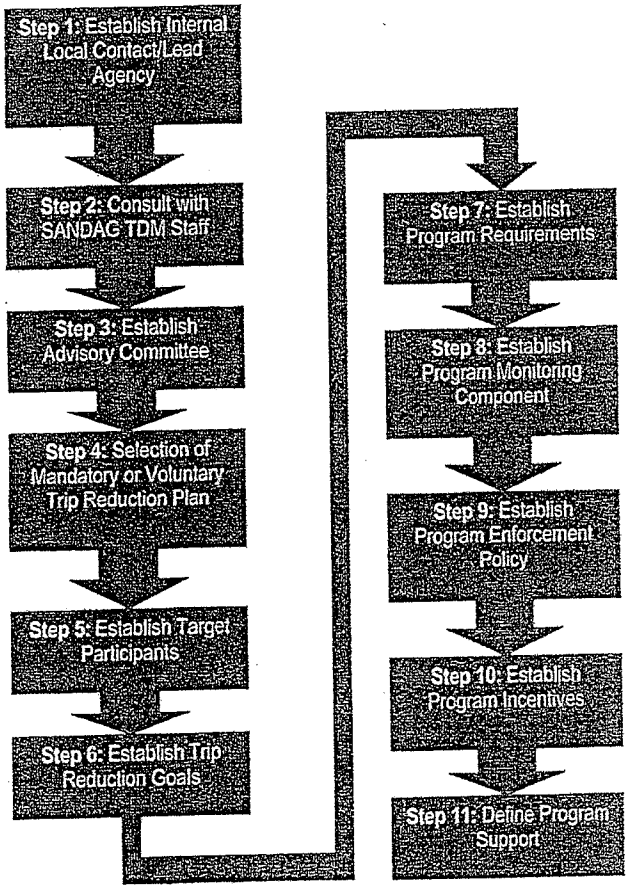
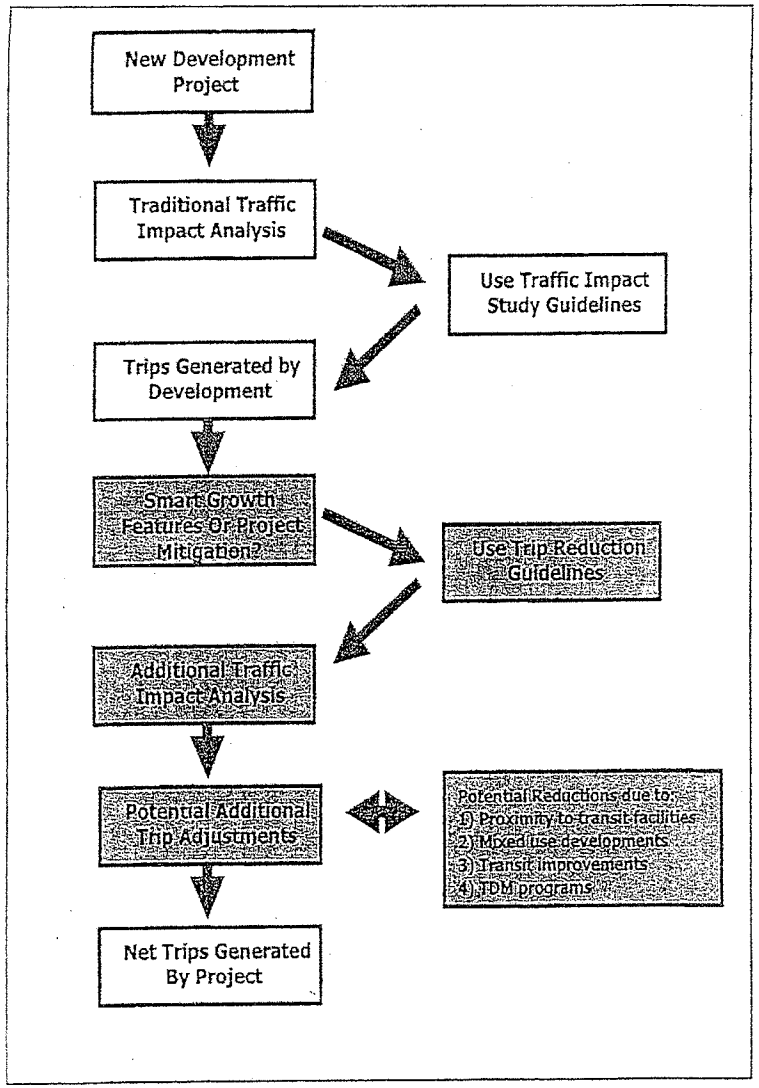


Exhibit 4-5
Incorporating the Trip Reduction Guidelines Into the Development Review Process



APPENDIX D
TRAFFIC IMPACT STUDY (TIS) GUIDELINES

APPENDIX D
TRAFFIC IMPACT STUDY (TIS) GUIDELINES

1.0 BACKGROUND

In September 1998, the San Diego Regional Traffic Standards Task Force gathered for the first time to promote "cooperation among the cities, Caltrans, and the County of San Diego to create a region-wide standard for determining traffic impacts in environmental reports." Ultimately the San Diego Traffic Engineers' Council (SANTEC) and the Institute of Transportation Engineers (ITE - California Border Section) were requested to prepare guidelines for traffic impact studies (TIS) that could be reviewed by the Task Force and other appropriate groups. The primary documents used to help prepare these guidelines were SANDAG's *Congestion Management Program* and *Traffic Generators* manual, City of San Diego's *Traffic Impact Study Manual* and *Trip Generation Manual*, and Caltrans' Draft *Guide for the Preparation of Traffic Impact Studies*.

2.0 PURPOSE OF TRAFFIC IMPACT STUDIES (TIS)

Traffic impact studies forecast, describe, and analyze the traffic and transit effects a development will have on the existing and future circulation infrastructure. The purpose of the TIS is to assist engineers in both the development community and public agencies when making land use and other development decisions. A TIS quantifies the changes in traffic levels and translates these changes into transportation system impacts in the vicinity of a project.

TIS requirements are usually outlined as part of any environmental (CEQA) project review process; and, in order to monitor effects by these requirements, Notices of Preparation must be submitted to all affected agencies. In addition, the Land Use Analysis Program of the Congestion Management Program requires that an "enhanced CEQA review" be undertaken to evaluate the impacts of large projects on the regional transportation system. These guidelines are intended to provide guidance to local jurisdictions and/or project sponsors in meeting these CMP requirements.

Note: These guidelines are subject to continual update, as future technology and documentation become available. Local jurisdictions should be consulted regarding their preferred or applicable procedures.

3.0 OBJECTIVES OF TIS GUIDELINES

The following guidelines were prepared to assist local agencies throughout the San Diego region in promoting consistency and uniformity in traffic impact studies. All Circulation/Community Element roadways, all State routes and freeways (including metered and unmetered ramps), and all transit facilities that are impacted should be included in each study.

In general, the region-wide goal for an acceptable level-of-service (LOS) on all freeways, roadway segments, and intersections is "D." For undeveloped or not densely developed locations, as determined by any local jurisdiction, the goal may be to achieve a level-of-service of "C." Individual local jurisdictions, as well as Caltrans, have slightly different LOS objectives. For example, the Regional Growth Management Strategy for San Diego has a level-of-service objective of "D," while the Congestion Management Program has established a minimum level-of-service of "E", or "F" if that is the existing 1990 base year LOS. In other words, if the existing LOS is "D" or worse, preservation of the existing LOS must be maintained or acceptable mitigation must be identified. Definitions of LOS currently used by Caltrans are provided in Exhibit D-1.

These guidelines do not establish a legal standard for these functions, but are intended to supplement any individual TIS manuals or level of service objectives for the various jurisdictions. These guidelines attempt to consolidate regional efforts to identify when a TIS is needed, what professional procedures should be followed, and what constitutes a significant traffic impact.

The instructions outlined in these guidelines are subject to update as future conditions and experience become available. Special situations may call for variation from these guidelines. Caltrans and lead agencies should agree on the specific methods used in traffic impact studies involving any State Route facilities, including metered and unmetered freeway ramps.

4.0 NEED FOR A STUDY

A TIS should be prepared for all projects which generate traffic greater than 1,000 total average daily trips (ADT) or 100 peak-hour trips. If a proposed project is not in conformance with the land use and/or transportation element of the general or community plan, use threshold rates of 500 ADT or 50 peak-hour trips. Early consultation with any affected jurisdictions is strongly encouraged since a "focused" or "abbreviated" TIS may still be required – even if the above threshold rates are not met.

Currently, a Congestion Management Program (CMP) analysis is required for all large projects, which are defined as generating 2,400 or more average daily trips or 200 or more peak-hour trips. This size of study would usually include computerized long-range forecasts and select zone assignments. Please refer to the following flow chart (Figure D-1) for TIS requirements.

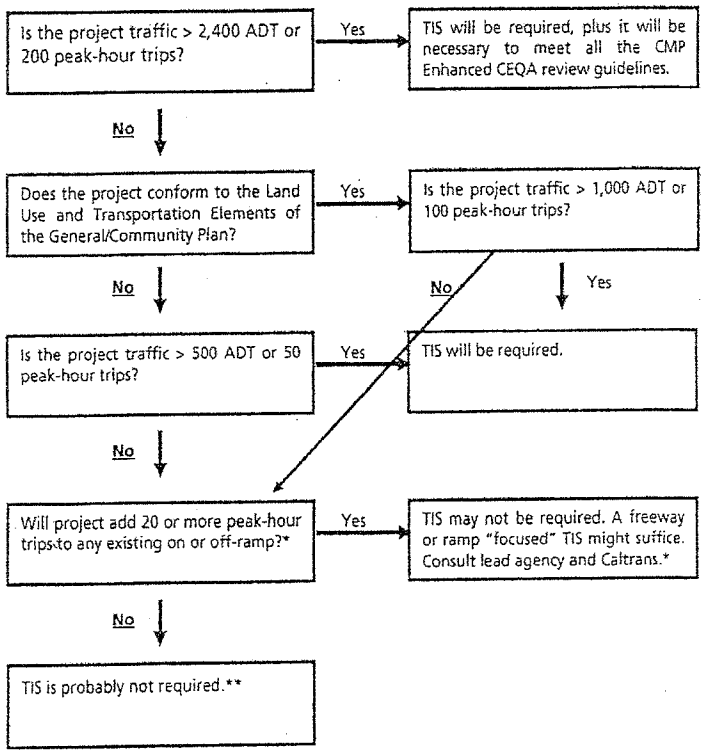
The geographic area examined in the TIS must include the following:

- All local roadway segments (including all State surface routes), intersections, and mainline freeway locations where the proposed project will add 50 or more peak-hour trips in either direction to the existing roadway traffic.

- All freeway entrance and exit ramps where the proposed project will add a significant number of peak-hour trips to cause any traffic queues to exceed ramp storage capacities (refer to Figure D-1). (NOTE: Care must be taken to include **other** ramps and intersections that may receive project traffic **diverted** as a result of already existing, or project causing congestion at freeway entrances and exits.)

The data used in the TIS should generally not be more than 2 years old, and should not reflect a temporary interruption (special events, construction detour, etc.) in the normal traffic patterns unless that is the nature of the project itself. If recent traffic data is not available, current counts must be made by the project applicant/consultant.

Figure D-1
Flow Chart For Traffic Impact Study (TIS) Requirements



* Check with Caltrans for current ramp metering rates and ramp storage capacities. (See Exhibit D-2 – Ramp Metering Analysis)

** However, for health and safety reasons, and/or local and residential street issues, an "abbreviated" or "focused" TIS may still be requested by a local agency. (For example, this may include traffic backed up beyond an off-ramp's storage capacity, or may include diverted traffic through an existing neighborhood.)

5.0 PROJECT COORDINATION VIA STAFF CONSULTATION

Early consultation between the development community, local and lead agencies, and Caltrans is strongly recommended to establish the base input parameters, assumptions, and analysis methodologies for the TIS.

It is critical that the TIS preparer discuss the project with the lead reviewing agency's staff engineer/planner at an early stage in the planning process. An understanding of the level of detail and the assumptions required for the analysis should be reached. While a pre-submittal conference is highly encouraged, it may not be a requirement. For straightforward studies prepared by consultants familiar with these TIS procedures, a telephone call or e-mail, followed by a fax verifying key assumptions, may suffice. Always check with the local jurisdictions for their concerns.

6.0 SCENARIOS TO BE STUDIED

After documenting existing conditions, both near-term (within approximately the next five years) and long-term (usually for a 20-year planning horizon or build-out of the area), analyses are needed.

All of the following scenarios should be addressed in the TIS (unless there is concurrence with the lead agency or agencies that one or more of these scenarios may be omitted):

- Existing (roadway infrastructure)
- Existing + Near-term Cumulative Projects (approved and pending)
- Existing + Near-term Cumulative Projects + Proposed Project (each phase when applicable)
- Horizon Year (typically Year 2020 or twenty years in the future)
- Horizon Year + Proposed Project (if different from General/Community Plan)

Scenario definitions:

Existing Conditions – Document existing traffic volumes and peak-hour levels of service in the study area. The existing deficiencies and potential mitigation should be identified.

Existing + Near-term – Analyze the cumulative condition impacts from "other" approved and "reasonably foreseeable" pending projects (application on file or definitely in the pipeline) that are expected to influence the study area. This is the baseline against which project impacts are assessed. The lead agency should provide copies of the traffic studies for the "other" projects. If data is not available for near-term cumulative projects, an ambient growth factor should be used.

Existing + Near-term + Proposed Project – Analyze the impacts of the proposed project on top of existing conditions and near-term projects (along with their committed or funded mitigation measures, if any).

Horizon Year – Identify Year 2020 traffic forecasts or 20-year future conditions through the output of a SANDAG model forecast (currently TRANPLAN) or other computer model approved by the local agency. For the CMP analysis, the model must be approved by SANDAG. If the proposed project is consistent with the land uses represented in the model, the TIS may only need to use this condition.

Horizon Year + Proposed Project – If the project land uses are more traffic intense than what was assumed in the horizon year model forecasts, analyze the additional project traffic impacts to the horizon year condition. When justified, and particularly in the case of very large developments or new general/community plans, a transportation model should be run with, and without, the additional development to show the net impacts on all parts of the area's transportation system.

In order to use LOS criteria to measure traffic impact significance, proposed model or manual forecast adjustments must be made to address scenarios both with and without the project. Refer to Table D-1 for guidance on measuring significant project impacts and Table D-2 for guidance on Level of Service and Average Daily Traffic parameters. Model data should be carefully verified to ensure accurate project and "other" cumulative project representation. In these cases, regional or subregional models conducted by SANDAG need to be reviewed for appropriateness.

Note: Project trips can be assigned and distributed either manually or by the computer model based upon review and approval of the local agency Traffic Engineer. The magnitude of the proposed project will usually determine which method is employed.

If the manual method is used, the trip distribution percentages should be derived from a computer generated "select zone assignment" or optionally (local agency approval) by professional judgment.

If the computer model is used, the centroid connectors should accurately represent project access to the street network. Preferably the project would be represented by its own traffic zone. Some adjustments to the output volumes may be needed (especially at intersections) to smooth out volumes, quantify peak volumes, adjust for pass-by and diverted trips, and correct illogical output.

7.0 TRAFFIC GENERATION

Use of SANDAG (*Traffic Generators* manual and *(Not So) Brief Guide...)* or City of San Diego (both of the City's *Traffic Impact Study Manual* and *Trip Generation Manual*) rates should first be considered. Next, consider rates from ITE's latest *Trip Generation* manual or ITE Journal articles. If local and sufficient national data do not exist, conduct trip generation studies at sites with characteristics similar to those of the proposed project. If this is not feasible due to the uniqueness of the land use, it may be acceptable to estimate defensible trip rates – only if appropriate documentation is provided.

Reasonable reductions to trip rates may also be considered: (a) with proper analysis of pass-by and diverted traffic on adjacent roadways, (b) for developments near transit stations and transit corridors, and (c) for mixed-use developments. (Note: Caltrans and local agencies may use different trip reduction rates. Early consultation with the reviewing agencies is strongly recommended.)

For potential reductions to trip rates for developments near transit stations and transit corridors and mixed-use developments, the Trip Reduction Guidelines (available from SANDAG) should be followed. The Guidelines provide standard methodologies for estimating the vehicle trip reductions associated with specific congestion mitigation strategies identified in the CMS Toolbox, including developments near transit stations and along transit corridors, and mixed-use developments.

Site traffic distribution, assignment, necessary model adjustments, and Congestion Management Program (CMP) concerns should all follow current SANDAG and local lead agency procedures.

8.0 TRAFFIC IMPACT STUDY (TIS) ANALYSIS

The TIS analysis shall determine the effect that a project will have for each of the previously outlined study scenarios. Peak-hour capacity analyses for freeways, roadway segments (ADTs may be used here to estimate V/C ratios), intersections, and freeway ramps must be conducted for both the near-term and long-term conditions. The methodologies used in determining the traffic impact are not only critical to the validity of the analysis, they are pertinent to the credibility and confidence the decision-makers have in the resulting findings, conclusions, and recommendations.

The following methodologies for TIS analysis should be used (unless early consultation with the lead agency and Caltrans has established other methods), along with some suggested software packages and options:

1. **Arterials, Multi-lane and Two-lane Highways, and all other Local Streets** – current Highway Capacity Manual (HCM): w/Highway Capacity Software (HCS)

2. **Signalized Intersections** – HCM: w/HCS, TRAFFIX, SigCinema, and SYNCHRO acceptable to Caltrans; and, HCS, TRAFFIX, SIGNAL 94, and NCAP acceptable to local jurisdictions.

3. **Unsignalized Intersections** – HCM

4. **Freeway Segments** – HCM or Caltrans District 11 freeway LOS definitions (see Attachment C): w/HCS

5. **Freeway Weaving Areas** – Caltrans Highway Design Manual (Chapter 500)

6. **Freeway Ramps** – Caltrans District 11 Ramp Metering Analysis (Attachment B), and Caltrans Ramp Meter Design Guidelines (August 1995), HCS (for ramp design only)

7. **Freeway Interchanges** – HCM: for diamond interchanges where the timing and phasing of the two signals must be coordinated to ensure queue clearances, consider Passer III-90

8. **Transit, Pedestrians, and Bicycles** – HCM

9. **Warrants for Traffic Signals, Stop Signs, School Crossings, Freeway Lighting, etc.** – Caltrans' Traffic Manual

10. **Channelization and Intersection Geometry** – Caltrans' Traffic Manual and Guidelines for Reconstruction of Intersections, City of San Diego's Traffic Impact Study Manual -Appendix 4

Note: Neither local jurisdictions nor Caltrans officially advocate the use of any special software packages, especially since new ones are being developed all the time. However, consistency with the Highway Capacity Manual (HCM) is advocated in most cases. The above-mentioned software packages have been utilized locally. Because it is so important to have consistent end results, always consult with all affected jurisdictions, including Caltrans, regarding the analytical techniques and software being considered (especially if they differ from above) for the TIS.

9.0 SIGNIFICANCE OF TRAFFIC IMPACTS TO CONSIDER MITIGATION

The following Table D-1 indicates when a project's impact is significant and mitigation measures are to be identified. That is, if a project's traffic impact causes the values in this table to be exceeded, it is determined to be a significant project impact. (Mitigation for all identified significant impacts should be provided for any project requiring CEQA analysis.)

Note: It is the responsibility of Caltrans, on Caltrans-initiated projects, to mitigate the effect of ramp metering, for initial as well as future operational impacts, on local streets that intersect and feed entrance ramps to the freeway. Developers and/or local agencies, however, should be required to mitigate any impact to existing ramp meter facilities, future ramp meter installations, or local streets, when those impacts are attributable to new development and/or local agency roadway improvement projects.

Table D-1
Measure of Significant Project Traffic Impacts

Level of Service with Project*	Allowable Change due to Project Impact**					
	Freeways		Roadway Segments		Intersections	Ramp*** Metering
	V/C	Speed (mph)	V/C	Speed (mph)	Delay (sec.)	Delay (min.)
D, E, & F (or ramp meter delays above 15 min.)	0.01	1	0.02	1	2	2

Notes:

* All level of service measurements are based upon HCM procedures for peak-hour conditions. However, V/C ratios for Roadway Segments may be estimated on an ADT/24-hour traffic volume basis (using Table D-2 or a similar LOS chart for each jurisdiction). The acceptable LOS for freeways, roadways, and intersections is generally "D" ("C" for undeveloped or not densely developed locations per jurisdiction definitions). For metered freeway ramps, LOS does not apply. However, ramp meter delays above 15 minutes are considered excessive.

**If a proposed project's traffic causes the values shown in the table to be exceeded, the impacts are determined to be significant. These impact changes may be measured from appropriate computer programs or expanded manual spreadsheets. The project applicant shall then identify feasible mitigation (within the Traffic Impact Study report) that will maintain the traffic facility at an acceptable LOS. If the LOS with the proposed project becomes unacceptable (see above * note), or if the project adds a significant amount of peak-hour trips to cause any traffic queues to exceed on- or off-ramp storage capacities, the project applicant shall be responsible for mitigating significant impact changes.

*** See Exhibit D-2 for ramp metering analysis.

KEY: V/C = Volume to Capacity ratio
Speed = Speed measured in miles per hour
Delay = Average stopped delay per vehicle measured in seconds for intersections, or minutes for ramp meters
LOS = Level of Service

Table D-2
Roadway Classifications, Levels of Service (LOS), and Average Daily Traffic (ADT)

STREET CLASSIFICATION	LANES	CROSS SECTIONS* (APPROX.)	LEVEL OF SERVICE W/ADT** A	B	C	D	E
Expressway	6 lanes	102-160/122-200	30,000	42,000	60,000	70,000	80,000
Prime Arterial	6 lanes	102-108/122-128	25,000	35,000	50,000	55,000	60,000
Major Arterial	6 lanes	102/122	20,000	28,000	40,000	45,000	50,000
Major Arterial	4 lanes	78-82/98-102	15,000	21,000	30,000	35,000	40,000
Secondary Arterial/ Collector	4 lanes	64-72/84-92	10,000	14,000	20,000	25,000	30,000
Collector (no center lane) (continuous left-turn lane)	4 lanes 2 lanes	64/84 50/70	5,000	7,000	10,000	13,000	15,000
Collector (no fronting property)	2 lanes	40/60	4,000	5,500	7,500	9,000	10,000
Collector (commercial-industrial fronting)	2 lanes	50/70	2,500	3,500	5,000	6,500	8,000
Collector (multi-family)	2 lanes	40/60	2,500	3,500	5,000	6,500	8,000
Sub-Collector (single-family)	2 lanes	36/56	—	—	2,200	—	—

LEGEND:

* Curb to curb width (feet)/right of way width (feet): based upon the City of San Diego Street Design Manual and other jurisdictions within the San Diego region.

** Approximate recommended ADT based upon the City of San Diego Street Design Manual.

Notes:

[1] The volumes and the average daily level of service listed above are only intended as a general planning guideline.

[2] Levels of service are not applied to residential streets since their primary purpose is to serve abutting lots, not carry through traffic. Levels of service normally apply to roads carrying through traffic between major trip generators and attractors.

Not all mitigation measures can feasibly be "hard" (new lanes or new capacity) improvements. A sample mitigation measure might include financing toward a regional ITS (Intelligent Transportation System) project, such as improved or "dynamic" ramp metering with real-time delay information available to motorists. The information can be accessed on either home or in-vehicle computers, or even by telephone (each ramp could have its own phone number with delay information) so the motorist can make a driving decision long before she or he arrives at a congested on-ramp. This sample mitigation would allow a project applicant (especially with a relatively small project) to meet mitigation by paying into a regional ramp meter fee, providing the fee can be established in the near future. In identifying potential mitigation measures, the CMP *Toolbox of Mitigation Strategies* and any adopted Deficiency Plans in the study area should also be consulted.

Other mitigation measures may include Transportation Demand Management recommendations – transit facilities, bike facilities, walkability, telecommuting, traffic rideshare programs, flex-time, carpool incentives, parking cash-out, etc. Additional mitigation measures may become acceptable as future technologies and policies evolve.

To determine potential trip reductions associated with Transportation Demand Management mitigation measures, the Trip Reduction Guidelines (available from SANDAG) should be followed. The Guidelines provide standard methodology for estimating the vehicle trip reductions associated with specific congestion mitigation strategies as identified in the CMS Toolbox, including TDM strategies.

10.0 SCREEN CHECK

As part of the first draft of a TIS, the preparer must ensure that all required elements have been included. This screen check procedure will help reduce the number of submittals, and will encourage early dialogue between the reviewer and the preparer. The local agency reviewer will check the study for completeness, and strive to return all incomplete submittals within seven working days. A pre-submittal conference is encouraged to determine which elements are not required for the TIS.

Exhibit D-3 contains the TIS Screen Check.

Exhibit D-1
Level of Service (LOS) Definitions
(Generally used by Caltrans)

The concept of Level of Service (LOS) is defined as a qualitative measure describing operational conditions within a traffic stream, and their perception by motorists and/or passengers. A Level of Service[1] definition generally describes these conditions in terms of such factors as speed, travel time, freedom to maneuver, comfort and convenience, and safety. Levels of Service definitions can generally be categorized as follows:

LOS	D/C[2]	Congestion/Delay	Traffic Description
(Used for freeways, expressways and conventional highways[3])			
"A"	<0.41	None	Free flow.
"B"	0.42-0.62	None	Free to stable flow, light to moderate volumes.
"C"	0.63-0.79	None to minimal	Stable flow, moderate volumes, freedom to maneuver noticeably restricted.
"D"	0.80-0.92	Minimal to substantial	Approaches unstable flow, heavy volumes, very limited freedom to maneuver.
"E"	0.93-1.00	Significant	Extremely unstable flow, maneuverability and psychological comfort extremely poor.
(Used for conventional highways)			
"F"	>1.00	Considerable	Forced or breakdown. Delay measured in average flow, travel speed (MPH). Signalized segments experience delays >60.0 seconds/vehicle.
(Used for freeways and expressways)			
"F0"	1.01-1.25	Considerable 0-1 hour delay	Forced flow, heavy congestion, long queues form behind breakdown points, stop and go.
"F1"	1.26-1.35	Severe 1-2 hour delay	Very heavy congestion, very long queues.
"F2"	1.36-1.45	Very severe 2-3 hour delay	Extremely heavy congestion, longer queues, more numerous breakdown points, longer stop periods.
"F3"	>1.46	Extremely severe 3+ hours of delay	Gridlock.

[1] Level of Service can generally be calculated using "Table 3.1. LOS Criteria for Basic Freeway Sections" from the latest Highway Capacity Manual. However, contact Caltrans for more specific information on determining existing "free-flow" freeway speeds.

[2] Demand/Capacity ratio used for forecasts (V/C ratio used for operational analysis, where V = volume)

[3] Arterial LOS is based upon average "free-flow" travel speeds, and should refer to definitions in Table 11.1 in the HCM.

Exhibit D-2
Ramp Metering Analysis

Ramp metering analysis should be performed for each horizon year scenario in which ramp metering is expected. The following table shows relevant information that should be included in the ramp meter analysis "Summary of Freeway Ramp Metering Impacts."

LOCATION	DEMAND (veh/hr)[1]	METER RATE (veh/hr)[2]	EXCESS DEMAND (veh/hr)[3]	DELAY (min)[4]	QUEUE (feet)[5]

Notes:

[1] DEMAND is the peak hour demand expected to use the on-ramp.

[2] METER RATE is the peak hour capacity expected to be processed through the ramp meter. This value should be obtained from Caltrans. Contact Carolyn Rumsey at (619) 467-3029.

[3] EXCESS DEMAND = (DEMAND) – (METER RATE) or zero, whichever is greater.

[4] DELAY = EXCESS DEMAND ÷ METER RATE X 60 MINUTES/HOUR

[5] QUEUE = (EXCESS DEMAND) X 29 feet/vehicle

Note: Delay will be less at the beginning of metering. However, since peaks will almost be more than one hour, delay will be greater after the first hour of metering. (See discussion on next page.)

Summary of Freeway Ramp Metering Impacts
(Lengthen as necessary to include all impacted meter locations)

LOCATIONS	PEAK HOUR	PEAK HOUR DEMAND D	FLOW (METER RATE) F	EXCESS DEMAND E	DELAY (MINUTES)	QUEUE Q (feet)
	AM PM					
	AM PM					
	AM PM					

Exhibit D-2 (Cont.)
Ramp Metering Analysis

A. CAUTION: The ramp metering analysis shown in Attachment B may lead to grossly understated results for delay and queue length, since important aspects of queue growth are ignored. Also, the draft guidelines method derives **average** values instead of **maximum** values for delay and queue length. Utilizing average values instead of maximum values can lead to obscuring important effects, particularly in regard to queue length.

Predicting ramp meter delays and queues requires a storage-discharge type of analysis, where a pattern of arriving traffic at the meter is estimated by the analyst, and the discharge, or meter rate, is a somewhat fixed value set by Caltrans for each individual metered ramp.

Since a ramp meter queue continues to grow longer during all times that the arrival rate exceeds the discharge rate, the maximum queue length (and hence, the maximum delay) usually occurs after the end of the peak (or highest) one hour. This leads to the need for an analysis for the entire time period during which the arrival rate exceeds the meter rate, not just the peak hour. For a similar reason, the analysis needs to consider that a substantial queue may have already formed by the beginning of the "peak hour." Traffic arriving during the peak hour is then stacked onto an existing queue, not just starting from zero as the draft analysis suggests.

Experience shows that the theoretical queue length derived by this analysis often does not materialize. Motorists, after a brief time of adjustment, seek alternate travel paths or alternate times of arrival at the meter. The effect is to approximately minimize total trip time by seeking out the best combinations of route and departure time at the beginning of the trip. This causes at least two important changes in the pattern or arriving traffic at ramp meters. First, the peak period is spread out, with some traffic arriving earlier and some traffic arriving later than predicted. Second, a significant proportion of the predicted arriving traffic will use another ramp, use another freeway, or stay on surface streets.

It is acceptable to make reasonable estimates of these temporal and spatial (time and occupying space) diversions as long as all assumptions are stated and that the unmodified, or theoretical values are shown for comparison.

B. Additional areas for study include being able to define acceptable levels of service (LOS) and "significant" thresholds (e.g., a maximum ramp meter delay of 15 minutes) for metered freeway entrance ramps.

Currently there are no acceptable software programs for measuring project impacts on metered freeway ramps nor does the Highway Capacity Manual (HCM) adequately address this issue. Hopefully in the near future a region-wide study will be initiated to determine what metering rate (at each metered ramp) would be required in order to guarantee that traffic will flow (even at LOS "E") on the entire freeway system during peak-hour conditions. From this, the ramp delays and resultant queue lengths might then be calculated. Overall, this is a very complex issue that needs considerable research and refinement in cooperation with Caltrans.

Exhibit D-3
Traffic Impact Study Screen Check

To be completed by Staff:

Date Received _____

Reviewer _____

Date Screen Check _____

To be completed by consultant (including page #):

Name of Traffic Study _____

Consultant _____

Date Submitted _____

Indicate Page # in report:		Satisfactory YES	Satisfactory NO	NOT REQUIRED
pg. _____	1. Table of contents, list of figures and list of tables.	☐	☐	
pg. _____	2. Executive summary.	☐	☐	
pg. _____	3. Map of the proposed project location.	☐	☐	
	4. General project description and background information:			
pg. _____	a. Proposed project description (acres, dwelling units....)	☐	☐	
pg. _____	b. Total trip generation of proposed project.	☐	☐	
pg. _____	c. Community plan assumption for the proposed site.	☐	☐	
pg. _____	d. Discuss how project affects the Congestion Management Program, if applicable	☐	☐	
pg. _____	5. Parking, transit and on-site circulation discussions are included.	☐	☐	
pg. _____	6. Map of the Transportation Impact Study Area and specific intersections studied in the traffic report.	☐	☐	
pg. _____	7. Existing Transportation Conditions:			
	a. Figure identifying roadway conditions including raised medians, median openings, separate left and right turn lanes, roadway and intersection dimensions, bike lanes, parking, number of travel lanes, posted speed, intersection controls, turn restrictions and intersection lane configurations.	☐	☐	
	b. Figure indicating the daily (ADT) and peak-hour volumes.	☐	☐	
	c. Figure or table showing level of service (LOS) for intersections during peak hours and roadway sections within the study area (include analysis sheets in an appendix).	☐	☐	
	8. Project Trip Generation:			
pg. _____	Table showing the calculated project generated daily (ADT) and peak hour volumes.	☐	☐	
pg. _____	9. Project Trip Distribution using the current TRANPLAN Computer Traffic Model (provide a computer plot) or manual assignment if previously approved. (Identify which method was used.)	☐	☐	
	10. Project Traffic Assignment:			
pg. _____	a. Figure indicating the daily (ADT) and peak-hour volumes.	☐	☐	
pg. _____	b. Figure showing pass-by-trip adjustments, and, if cumulative trip rates are used.	☐	☐	☐
pg. _____	c. Appropriate documentation and justification provided for any additional trip reductions associated with strategies from the CMS Toolbox, as outlined in the Trip Reduction Guidelines (available from SANDAG).	☐	☐	☐

Indicate Page # in report:		Satisfactory		
		YES	NO	NOT REQUIRED
	11. Existing Near-term Cumulative Conditions:			
pg. _____	a. Figure indicating the daily (ADT) and peak-hour volumes.	☐	☐	
pg. _____	b. Figure or table showing the projected LOS for intersections during peak hours and roadway sections within the study area (analysis sheets included in the appendix).	☐	☐	
pg. _____	c. Traffic signal warrant analysis (Caltrans Traffic Manual) for appropriate locations.	☐	☐	
	12. Existing Near-term Cumulative Conditions + Proposed Project (each phase when applicable)			
pg. _____	a. Figure or table showing the projected LOS for intersections during peak hours and roadway sections with the project (analysis sheets included in the appendix).	☐	☐	
pg. _____	b. Figure showing other projects that were included in the study, and the assignment of their site traffic.	☐	☐	
pg. _____	c. Traffic signal warrant analysis for appropriate locations.	☐	☐	
	13. Horizon Year Transportation Conditions (if project conforms to the General/ Community Plan):			
pg. _____	a. Horizon Year ADT and street classification that reflect the Community Plan.	☐	☐	☐
pg. _____	b. Figure or table showing the horizon LOS for intersections during peak hours and roadway sections with and without the project (analysis sheets included in the appendix).	☐	☐	☐
pg. _____	c. Traffic signal warrant analysis at appropriate locations.	☐	☐	☐
	14. Horizon Year Transportation Conditions + Proposed Project (if project does not conform to the General/Community Plan):			
pg. _____	a. Horizon Year ADT and street classification as shown in the Community Plan.	☐	☐	☐
pg. _____	b. Horizon Year ADT and street classification for two scenarios: with the proposed project and with the land use assumed in the Community Plan.	☐	☐	☐
pg. _____	c. Figure or table showing the horizon LOS for intersections during peak hours and roadway sections for two scenarios: with and without the proposed project and with the land use assumed in the Community Plan (analysis sheets included in the appendix).	☐	☐	☐
pg. _____	d. Traffic signal warrant analysis at appropriate locations with the land use assumed in the General/Community Plan.	☐	☐	☐
pg. _____	15. A summary table showing the comparison of Existing, Existing + Near-term Cumulative, Existing + Near-term Cumulative + Proposed Project, Horizon Year, and Horizon Year + Proposed Project (if different from General/Community Plan), LOS on roadway sections and intersections during peak hours.	☐	☐	
pg. _____	16. A summary table showing the project's "significant traffic impacts."	☐	☐	
	17. Transportation Mitigation Measures:			
pg. _____	a. Table identifying the mitigations required that are the responsibility of the developer and others. A phasing plan is required if mitigations are proposed in phases.	☐	☐	
pg. _____	b. Figure showing all proposed mitigations that include: intersection lane configurations, lane widths, raised medians, median openings, roadway and intersection dimensions, right-of-way, offset, etc.	☐	☐	
pg. _____	c. Appropriate documentation and justification provided for any mitigation measures taken from the CMS Toolbox, as outlined in the Trip Reduction Guidelines (2002 CMP, Appendix J).	☐	☐	☐

Indicate Page # in report:		Satisfactory		
		YES	NO	NOT REQUIRED
pg. _____	18. The Highway Capacity Manual Operation Method or other approved method is used at appropriate locations within the study area.	☐	☐	
pg. _____	19. Analysis complies with Congestion Management Program requirements.	☐	☐	☐
pg. _____	20. Appropriate freeway analysis is included.	☐	☐	☐
pg. _____	21. Appropriate freeway ramp metering analysis is included.	☐	☐	☐
pg. _____	22. The traffic study is signed by a California Registered Traffic Engineer.	☐	☐	

THE TRAFFIC STUDY SCREEN CHECK FOR THE SUBJECT PROJECT IS:

_____ Approved

_____ Not approved because the following items are missing:

_____

_____

_____

_____

_____

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

PUBLIC UTILITIES COMMISSION
320 WEST 4TH STREET, SUITE 500
LOS ANGELES, CA 90013

RECEIVED
JUN 16 2008
Planning Department

June 13, 2008

Jerry Hittleman
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054

Dear Mr. Hittleman:

Re: SCH# 2006111033; The Pavilion At Oceanside

The California Public Utilities Commission (Commission) has jurisdiction over the safety of highway-rail crossings (crossings) in California. The California Public Utilities Code requires Commission approval for the construction or alteration of crossings and grants the Commission exclusive power on the design, alteration, and closure of crossings.

The Commission's Rail Crossings Engineering Section (RCES) staff is in receipt of the *Notice of Completion & Environmental Document Transmittal-NOP* from the State Clearinghouse. In June 2006, RCES submitted comments in response this project. Our correspondence today reiterates those previous comments and provides recommendations relative to the new development at State Route 76 and Foussat Road (lat= 33.700386, long=-116.185999) which may increase traffic volumes not only on streets and at intersections, but also at the nearby crossings of South El Camino Real (DOT# 0277557C), and Rancho Del Oro Road (DOT# 027467D). This includes considering pedestrian circulation patterns/destinations with respect to railroad right-of-way. 22.

Mitigation measures to consider include, but are not limited to, the planning for grade separations for major thoroughfares, improvements to existing at-grade highway-rail crossings due to increase in traffic volumes and continuous vandal resistant fencing or other appropriate barriers to limit the access of trespassers onto North County Transit District's right-of-way.

If you have any questions, please contact Varouj Jinbachian, Senior Utilities Engineer at 213-576-7081, vsj@cpuc.ca.gov, or me at rxm@cpuc.ca.gov, 213-576-7078.

Sincerely,

Rosa Muñoz, PE
Utilities Engineer
Rail Crossings Engineering Section
Consumer Protection & Safety Division

C: Keith Kranda, NCTD

22. The rail crossings are located south of Oceanside Boulevard approximately 2 miles south of the project area. Based on the traffic forecasts, the project would add approximately 482 trips per day at the El Camino Real crossing and 322 trips per day at the Rancho Del Oro Crossing. Although new trips may be added to the crossings, the new trips would represent an increase in traffic of less than 1% by the year 2020 and thus would not have a significant adverse impact.

California Regional Water Quality Control Board
San Diego Region

Linda S. Adams
Secretary for Environmental Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from U.S. EPA

Arnold Schwarzenegger
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353
(858) 467-2952 • Fax (858) 571-6972
http://www.waterboards.ca.gov/sandiego

June 23, 2008

Jerry Hittleman
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054

SUBJECT: Comments on the Draft Environmental Impact Report for the Pavilion at Oceanside (SCH# 2006111033)

Dear Mr. Hittleman:

The San Diego Regional Water Quality Control Board (SDRWQCB) appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the Pavilion at Oceanside. The project is located north of State Route 76 and east of Foussat Road and south of the San Luis Rey River.

The Pavilion at Oceanside project proposes constructing an approximately 950,000 ft² shopping center on a 92 acre site as well as off-site road improvements.

The SDRWQCB regulates the discharge of storm water to protect the quality of waters of the State, broadly defined as "the chemical, physical, biological, bacteriological, radiological, and other properties and characteristics of water which affects its use". Addressing the protection of water resources and water quality at this stage in the project offers the most cost effective strategy for minimizing the impacts of pollutants from on-site runoff to downstream surface waters and for reducing physical impacts to down slope streams and wetlands. Our review of the proposed project is limited to potential impacts to surface water quality. The following comments include treatment criteria, and a review of regulatory requirements applicable to your project:

1) Water Course Alterations

a) Section 401 of the Clean Water Act requires any applicant for a federal license or permit to conduct any activity which may result in any discharge into the navigable waters, to provide the licensing or permitting agency a certification from the State water pollution control agency having jurisdiction over the navigable waters at which the discharge originates or will originate, that any such discharge will comply with water quality standards and implementation plans.

23.

23. Comment noted. Project designers have incorporated water quality certification requirements and obtaining CWA 401 certification as a project condition (also see the MMRP).

b) If water courses are to be altered in any way, the project proponent must perform a wetland delineation in accordance with the US Army Corps of Engineers (USACE) delineation manual and arid west supplement, and obtain a Jurisdictional Determination (JD) from the USACE, in order to determine if the impacted water courses are considered Federal or non-Federal waters of the State. 24.

c) For projects that propose alterations or impacts to non-federal waters of the State, the discharger should apply for individual or general Waste Discharge Requirements. 25.

d) In any case, the project should avoid all impacts to water courses, minimize impacts that cannot be avoided, and mitigate for any remaining impacts in accordance with the State's "No-Net-Loss" policy (Executive Order W-59-93). 26.

2) Minimizing Impervious Surfaces

a) The proposed project will include 4,713 parking spaces, while only 1,254 trips are estimated during the peak a.m. hour and 2,872 trips during the peak p.m. hour. The nearby San Luis Rey River, a 303(d)-listed impaired water body, is impaired for chloride and total dissolved solids, which are both caused by urban runoff. As such, the project should make an effort to minimize the amount of impervious surface as much as possible and should provide clear reasoning as to why so many parking spaces are needed to support the project. Possible site design considerations include:

i) Narrowing the width of parking stalls and aisles to the minimum acceptable widths. 27.

ii) Directing flow of traffic within the parking lots to be one-way, allowing for narrower aisles.

iii) Providing only the maximum number of parking spaces necessary to serve the demand of the project.

iv) If parking demand is expected to be considerably larger during only a few weeks a year, consider designing some of the proposed parking areas to be for overflow parking. These areas will be trafficked less frequently and so can be paved with permeable pavement, pavers, or other pervious surfaces.

3) SUSMP Requirements

24. As discussed on page 66 of the DEIR, the very limited (0.12 acre) southern willow scrub and disturbed wetland (0.22 acre) areas onsite were delineated and determined to be under the jurisdiction of the U.S. Army Corps of Engineers and the California Department of Fish and Game. The applicant is aware of this requirement and will submit the required jurisdictional delineation to the Corps as part of Clean Water Act permitting. The City conditions of approval and MMRP will require that such permits be obtained prior to grading in these areas.

25. The EIR identifies the need for permits and approvals from a number of agencies, including the San Diego County Regional Water Quality Control Board (page 12 of DEIR). The applicant is aware of the need to obtain any necessary permits from the California Regional Water Quality Control Board (RWQCB). The City conditions of approval and MMRP will require that any such permits be obtained prior to grading in these areas.

26. This comment is noted. The applicant will apply for all appropriate permits from the RWQCB. The City conditions of approval and MMRP will require that any such permits be obtained prior to grading in these areas.

27. The project design for the drive aisles and parking areas conform to the standards of the City of Oceanside for commercial development. For the Project, the parking rates are based on the minimum standard City rates of 4/1000 square feet for retail, 10/1000 square feet for restaurant and 1/4 seats for the theater. Based on these standards, the total required minimum parking for the Project is 4,444 spaces. The Project design includes a total of 4,489 spaces, which is modestly above (1%) the City requirements. It is common for retail tenants to request/specify a higher ratio (5/1000) as part of lease negotiations, and many of the larger centers in the area include parking well above the minimum requirements. Based on the variety of uses and large scale of the shopping

a) As a Priority Development Project, the Pavilion at Oceanside project must comply with the local Standard Urban Storm Water Mitigation Plan (SUSMP) and other requirements of the Municipal Storm Water Permit (R9-2007-0001). 28.

b) It appears that the Pala Road Extension Alternative will have an impact on the footprint of Park Pond. Please confirm that the pond will still be capable of detaining the excess 0.07 acre-foot of storm water from the on-site storm drain system if the capacity of the pond is reduced. 29.

c) While not a part of the proposed project, the Pala Road extension is ultimately called for by the City of Oceanside's Circulation Element. If the pond would not be capable of retaining the excess, the on-site storm drain system should be modified to be capable of detaining the entire amount of needed detention/storage, 0.53 acre-foot. 30.

The above comments do not constitute approval of your project nor are they intended as a complete list of regulatory requirements. The above comments are intended as suggestions for the protection of storm water quality although adherence to some suggestions may in fact be required. 31.

If you would like clarification on any of our comments or if we may be of further assistance, please contact CClemente, at (858) 467-2359 or email CClemente@waterboards.ca.gov.

Respectfully,

Chiara Clemente
Senior Environmental Scientist
Central Watershed Protection Unit

27. center the City staff requested (during plan review) that the parking areas not use these kinds of higher ratios to meet tenant criteria that could result in excess, unused spaces during much of the year. The developer agreed to keep parking spaces being provided close to the minimum City-specified parking ratios, which inherently limits the total pavement area needed for this project.

Drive aisles are sized to meet the minimum 2-way width of 24-feet, except for required fire lanes/emergency lanes, which must be 28 feet wide. The use of one-way aisles is shown within the central lifestyle corridor of the proposed project. Other areas of the parking lots utilize two-way aisles and 90-degree spaces for efficient parking layout. While one-way aisles can be narrower, they result in fewer parking spaces per aisle, so additional lanes of parking are then needed to provide the required number of parking spaces. When evaluating the total parking module width (two rows of parking spaces with an aisle in between them), the area per parking space is lowest for 90-degree spaces versus 60-degree or 45-degree angled spaces [Shopping Center Parking: The Influence of Changing Car Sizes, International Council of Shopping Centers, 1984].

The project design also incorporates features to add pervious areas throughout the paved areas of the site, introducing

bioswales and landscaping to help improve water quality leaving the parking lots and other paved areas, and to improve the appearance of the parking areas. The site includes more than the required landscaping (18% versus 15%), providing a larger amount of pervious areas on the site than required by City standards. Total landscaping onsite will be over 15.8 acres.

28. It is acknowledged that the project is required to comply with the SUSMP and other requirements of the current Municipal Storm Water Permit. The Storm Water Mitigation Plan (SWMP) by O'Day Consultants dated May 18, 2006 and revised December 14, 2007 that is included in the *Draft Environmental Impact Report for the Pavilion at Oceanside* dated March 9, 2008 was prepared based on the previous Municipal Permit Order, but no longer qualifies to be "grandfathered" effective March 25, 2008. As a result, some technical revisions were made in the SWMP, to conform to the State-mandated Order No. R9-2007-0001 (NPDES No. CAS0108758) and the City of Oceanside's latest *Interim Standard Urban Stormwater Mitigation Plan* (SUSMP) effective March 25, 2008.

    An updated SWMP has been prepared and is on file with the City of Oceanside. All of the regulations and requirements that have changed since the December 14, 2007 SWMP will serve to improve water quality and would not create any potential for increased impacts. The Best Management Practices (BMPs) in the Storm Water Mitigation Plan for both construction and ongoing post-construction phases in Appendix G would continue to reduce any impacts to below a level of significance.

29. See response to comment 30 below.

30. The need for any additional on-site detention associated with the Off-Site Pala Road Extension Alternative cannot be determined with certainty until final engineering design and plans are prepared. Current estimates indicate Park Pond would be 0.53 acre-feet short of the required storage should Pala Road be extended through the pond. The proposed on-site storm drain system that delivers storm water to the pond has an intrinsic storage volume of 0.46 acre-feet. Subtracting that from 0.53 results in a net amount of additional required storage of 0.07acre-feet should Pala Road be extended through the pond. In order to avoid any potential for impact from future road construction, the proposed onsite storm drain storage can be increased from 0.46 acre-feet to 0.53 acre-feet by adding 240 feet of 48-inch pipe. There is more than adequate room onsite to add this pipe length. The City will require this additional pipe storage as a condition of project approval.

    On August 29, 2008, the U.S. Army Corps of Engineers, Los Angeles District, sent a letter to the City with their review of the project. As this letter was sent 19 days after the close of public review and it does not contain any comments regarding the validity of the EIR analysis, no response is required under CEQA. The letter is included following this response, however, to assure that it is included in the administrative record.

31. Comment noted

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

REPLY TO
ATTENTION OF

August 29, 2008

Program and Project
Management Division

Jerry Hittleman
Planning Department
City of Oceanside
300 N Pacific Coast Highway
Oceanside, California 92054

Dear Mr. Hittleman:

Thank you for providing the Draft Environmental Impact Report ("EIR") for the proposed Pavilion project at Oceanside, California, dated May 5, 2008, to the Corps for review. My staff has completed a review of the EIR and I have enclosed their specific comments and concerns with this letter. We have determined that the proposed project is generally outside of the boundaries of the adjacent San Luis Rey River Flood Risk Management Project (River Project), and is therefore acceptable to the Corps of Engineers. However, we have also determined that Project Alternative B would not be compatible with the Federal project. This alternative involves an extension of Pala Road through Park Pond, which is an important feature of the River Project.

As indicated on page 186 of the EIR, Alternative B would reduce flood control storage as well as riparian and wetland habitat in the Pond. The habitat areas within Park Pond that would be affected by the road are part of the Corps and City mitigation commitments, as agreed in the Streambed Alteration Agreement (SAA) and the California Endangered Species Act (CESA) permit for the River Project issued to the City in February 2008. Under the terms of the permits, Park Pond must be protected from any development by a restrictive covenant or conservation easement. Therefore, the EIR should be revised to explain that Alternative B as proposed would not be approvable due to existing commitments and uses by the River Project.

As you know, the coordination with the resource agencies this past winter resulted in several additional requirements to allow the completion of the River Project. The CESA permit and SAA issued to the City require that a conservation easement or restrictive covenant be placed over the mitigation areas no later than two years from the loss of habitat per phase (see Section 5.2.7 of the CESA permit and Condition 18 of the SAA). In addition, the CESA permit requires that the City and Corps spend five million dollars on species recovery activities including restoration of approximately 45.5 acres to vireo-quality habitat (see Sections 5.2.3 and 5.2.5). The mitigation requirements must occur in step with the loss; therefore, the City and the Corps must provide approximately 25 acres of additional mitigation land by February of 2010. The Biological Opinion for the River Project contains requirements for the recovery activities that must be met before we can begin Phase II mowing. We need to work cooperatively to identify

the appropriate lands and formulate an acquisition and restoration plan per the timeline required in the permits. Finally, the City agreed in the CESA permit to complete its sub-area plan within eighteen months of the CESA permit's issuance (approximately August 2009) (see Section 5.2.4.1.). If the sub-area plan is not approved by that date, the CDFG may decide to revise the CESA permit to include substitute requirements which could increase project costs significantly. We are committed to working with the City on team solutions to meeting these essential project requirements.

A copy of this letter is being provided to Mr. Peter Weiss, City Manager and Mr. Don Hadley, Deputy City Manager, City of Oceanside, 300 North Coast Highway, Oceanside, California 92054.

Thank you again for providing the Corps an opportunity to review the EIR. Should you have any questions, please feel free to contact me at (213) 452-3961, or your staff may contact Mr. David Van Dorpe, at (213) 452-3998 or by mail at U.S. Army Corps of Engineers, P.O. Box 532711, Los Angeles, California 90053-2325.

Sincerely,

for: Brian Moore
Deputy District Engineer

Enclosure

CESPL-PD
CESPL-ED

Staff comments on specific issues in the Draft Environmental Impact Report, Pavilion at Oceanside, dated May 5, 2008

1. On pages S-9 and 71, the EIR incorrectly states that the levee is rock-faced on both sides. The EIR should be corrected to state that the levee is grouted rip-rap on the interior (river side) only.

2. On page 186, the EIR describes Alternative B as consistent with land use and the circulation element of the City of Oceanside. Because the extension of Pala Road through Park Pond is inconsistent with the San Luis Rey Flood Risk Management Project, the EIR should be corrected to note that Alternative B is not consistent with land use plans for the area.

3. The EIR states that the purpose of the road atop the levee is recreation use. The primary purpose of the road atop the levee is as a maintenance road and the secondary purpose is as a recreation trail.

4. Reference pages 105 & 109 of the EIR. The timing of the flood insurance map revisions is somewhat uncertain, as it is dependent upon the results of an updated engineering evaluation of the project performance, as well as the funding and schedule for the phased vegetation and sediment maintenance.

5. On page 183, referring to the Pala Road Alternative, Biological Resources: There is no mention of least Bell's vireo in Park Pond and that this road may directly take out one or more nests. The 2006 vireo survey/monitoring report for the San Luis Rey River Flood Risk Management Project will soon be final and it should be referenced as the most recent data for vireo nest locations with regard to Park Pond, as this pond is covered by the survey/monitoring. If the 2006 data cannot be referenced, 2005 data should be used.

ENCLOSURE

STATE OF CALIFORNIA — BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
DISTRICT 11
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Flex your power!
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June 23, 2008

11-SD-76
PM 2.57
Oceanside Pavilion DEIR

Mr. John Amberson
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054-2885

Dear Mr. John Amberson:

The California Department of Transportation (Caltrans) has reviewed Oceanside Pavilion DEIR (SCH 2006111033) project to be located along State Route 76 (SR-76) and North Foussat Road. Caltrans would like to re-iterate our comments dated May 2, 2008 (attached), in addition we have the following comments:

Traffic Operations

- The Traffic Report in several places refers to impacts to the intersection of SR-76 and Rancho del Oro Road (RDO) as "Indirect/Cumulative" (Table ES-6, Page 114). However, the "Significant Impact Thresholds" section on page 20 states that for the City of Oceanside, a significant impact is forecast to occur if project generated traffic increases the peak hour intersection delay by 2.0 seconds or more for intersections operating at LOS E or worse. Table ES-1 shows this intersection operating at LOS E in the AM peak and LOS F in the PM peak for the existing condition. This table also shows a project related change in delay of 6.0 seconds in the AM peak and 7.5 seconds in the PM peak. This would seem to indicate a project related direct impact. Please clarify. 32.

- Appropriate mitigation for the above condition would be to widen SR-76 to six lanes. The project adds 10% to traffic volumes westerly of RDO and 7% to traffic volumes easterly of RDO (see Exhibit 7). But the report states that widening SR-76 is a regional responsibility (see page 2, page 10, page 114 et al). Caltrans does not agree with this statement.

  An appropriate alternative would be to widen SR-76 to six lanes just West of and just East of Rancho del Oro. This could be done in a manner similar to what has already been done at Foussat and College. SR-76 is six lanes East and West of both of these intersections for approximately 500' to 100' in each direction and transitions to four lanes outside of these limits. If done, this should provide adequate mitigation for project related impacts. The 'creative' alternative of restriping a NB right turn pocket (pg 10 and pg 114) is used to mitigate a move that adds '0' traffic volume from the project (exhibit 8A), and hence does nothing to mitigate project related impacts. 33.

Hydraulics

- Any work in Caltrans right of way or grading that could modify existing drainage or increase runoff to state facilities will not be allowed. 34.

CALTRANS JUNE 23, 2008

32. Impacts are classified in two ways, as either significant or not significant, and either direct or indirect (cumulative). This comment blends these terms, which is not appropriate to the analysis. To clarify the conclusions of the traffic study: the project's cumulative indirect impact at the SR-76/Rancho Del Oro Drive intersection is identified as significant, because of the incremental increase in delay. However, a project-related direct impact would occur only if the project resulted in a change in operating condition from acceptable to deficient. For the SR-76/Rancho Del Oro Drive intersection, the deficient levels of service are an existing condition. Therefore, the impact at this intersection is identified correctly in the DEIR as a cumulative (indirect) significant impact

Mitigation to address the project's cumulative impact is identified as the re-striping of the northbound approach to provide a dedicated right turn lane (see next response for more detail regarding the mitigation measure). Also please see page 162 of the DEIR.

33. The DEIR identifies mitigation measures for the short-term cumulative impact to mitigate the Project's incremental impact at the intersection. As noted in response to comment #16, there was a recent change in the RTP that occurred during the preparation of the environmental documentation to show SR-76 as a four-lane instead of a six-lane facility, but this could be modified again.

The intersection of RDO/SR-76 currently operates at LOS E/F without the project. In the a.m. peak, there are over 350 vehicles turning right on the northbound approach. In the p.m. peak, there are over 500 vehicles making this same movement. Currently, there is no right turn pocket to meet this demand. Vehicles enter the bicycle lane approaching the intersection and queue several hundred feet during the peak

July 2, 2008

Jerry Hittleman
Planning Department
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054

RE: The Pavilion @ Oceanside Draft Environmental Impact Report (P-6-06, D-5-06, C-(19-23)-06)

Dear Mr. Hittleman:

Thank for you the opportunity to review the Draft Environmental Impact Report for the Pavilion development project, an 87.47 acre community shopping center on the northeast corner of Highway 76 and Foussat Road (the old drive-in movie theater site).

NCTD has had several discussions with both City staff, the developer (Thomas Enterprises), and his representatives (Lightfoot Planning Group), including face-to-face meetings in 2006 and 2007 at NCTD's offices, about this project. NCTD also provided comments in previous letters to the City responding to prior draft versions of this plan on August 17, 2006, November 22, 2006, and June 20, 2007. All of the comments previously made by NCTD on this project still hold true. NCTD requests that these comments be adequately addressed in the final environmental impact report, suggestions regarding transportation demand management.

Transit Access and Location

Since the previous review of the site plan several months ago, a bus transfer facility has been incorporated into the center's design. While NCTD did request that such a facility be incorporated into the center's design, its location is still less than ideal for our bus passengers. To minimize walking distance from the transit center to shopping opportunities (particularly for elderly and disabled passengers), the transit center would ideally be located just northwest of its planned location, in place of the small parking lot located directly behind the southernmost row of buildings. This location would still ensure easy access for buses in and out of the shopping center, and would provide bus passengers with direct access to the main shopping area, eliminating all possible conflicts with vehicles. It is NCTD's hope that this new shopping center will become not only a hub of activity for area residents, but will also be fully accessible to shoppers and employees who travel by bus. 57.

Pedestrian Access

The current site plan still requires some modification to be fully compliant with the Americans with Disabilities Act of 1990. There are still some buildings, such as Parcel "C" near the Mission Avenue access), that do not seem to have ADA-accessible paths 58.

NORTH COUNTY TRANSIT DISTRICT

57. The current bus stop locations adjacent to this property are located on Mission Avenue. In early discussions with NCTD, they indicated an interest in bringing a stop into the shopping center so that transit riders would not need to go out to the street or cross Mission Avenue to reach the center. It should be noted that this facility is not intended to be a bus transfer facility, but only a stop along the existing Mission Avenue routes. The City and the applicant have been working with NCTD on a preferred location within the center during design review of the site for the last 2+ years. As part of the east side redesign to accommodate the Subarea Plan Alternative and the 100-foot wide habitat corridor, the on-site circulation patterns were changed and the bus stop location and design were modified. This revised layout incorporated input provided by NCTD. The new design provides improved bus access by keeping the bus travel lanes away from main parking areas and minimizing the opportunities for bus/car conflicts. In addition, the southern end of the main street corridor has been redesigned, allowing for easier pedestrian connections from the bus stop into key shopping areas of the center. While it is desirable to minimize walking distance from the bus stop, for a center of this size and scale there will necessarily be areas that are further from the stop than others. The design as proposed includes large passenger waiting areas and the requested 4 bus bays. Shifting the bus stop as requested would result in only a minor change in distance to reach the shopping areas, and would increase bus/car conflict points.

58. The site plan incorporates pedestrian areas and connections, which are illustrated and detailed on the attached exhibit. The final site plans, building configurations, and architectural plans will be reviewed for ADA compliance as a standard City condition, and will be compliant as required by law (see attached Figure).

WAKEFIELD BEASLEY & ASSOCIATES
ARCHITECTS INTERIORS
5115 Peachtree Parkway
Building 300, Suite 3250
Norcross, Georgia 30092
770 209 9203 telephone
770 209 9159 fax

The Pavilion at Oceanside

Oceanside, California

THOMAS ENTERPRISES, INC.

Print Record

Revisions

Date 08.16.01 Job No. 0079.00

Sheet Title

PRELIMINARY SITE PLAN

Sheet No.

ADA ROUTES

SCALE: 1" = 100'-0"

of travel to them from other locations within the shopping center. In addition, pedestrians are not provided with safe and direct (or at least not significantly out-of direction) paths of travel between major uses, such as between the building on Parcel "J" just north of Parcel "C" and Parcel "A". In short, a pedestrian analysis should be done on this center and changes made to help discourage people from driving from one portion of this center to another, simply because no direct and safe pedestrian connection exists.

Thank you again for the opportunity to review the draft environmental impact report for this project. NCTD would be pleased to continue to work with the developer and the City to successfully address the transit needs of this project.

Please contact me at (760) 966-6546 or email me at kluhrsen@nctd.org if you have any questions regarding my comments or would like to setup a follow-up meeting to discuss various options or alternatives.

Sincerely,

Kurt Luhrsen

Kurt Luhrsen
Principal Planner

Cc: John Amberson, City of Oceanside
Ann Gunter, Lightfoot Planning Group

U. S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Rd. Suite 101
Carlsbad, California 92011
(760) 431-9440
FAX (760) 431-5901

California Department of Fish and Game
South Coast Region
4949 Viewridge Avenue
San Diego, California 92123
(858) 467-4201
FAX (858) 467-4299

In Reply Refer To:
FWS/CDFG-SDG-07B0017-08TA0666

Mr. Jerry Hittleman, City Planner
City of Oceanside Planning Department
300 North Coast Highway
Oceanside, California 92054

JUL 10 2008

Subject: Comments on the Draft Environmental Impact Report for the Pavilion Project, City of Oceanside, California (SCH #2006111033)

Dear Mr. Hittleman:

The California Department of Fish and Game (Department) and the U.S. Fish and Wildlife Service (Service), hereafter referred to as the Wildlife Agencies, have reviewed the above-referenced draft Environmental Impact Report (EIR) dated May 12, 2008. The comments provided herein are based on information provided in the draft EIR, a meeting with the applicant and City of Oceanside (City) staff on August 31, 2007, the Biological Technical Report (Helix 2008), the Mitigation Plan (Helix 2007), and our knowledge of sensitive and declining vegetation communities in the County of San Diego, and our participation in regional conservation planning efforts.

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Federal Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA; Sections 15386 and 15381, respectively) and is responsible for ensuring appropriate conservation of the state's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act (CESA) and other sections of the Fish and Game Code. The Department also administers the Natural Community Conservation Planning (NCCP) Program. The City of Oceanside (City) is currently participating in the NCCP program through the preparation of a Multiple Habitat Conservation Program (MHCP) Subarea Plan (SAP).

The 92-acre project site is located north of State Route 76, south of the San Luis Rey River, immediately east of Foussat Road and west of residential development. It is within the Wildlife Corridor Planning Zone of the City's draft SAP. The proposed project is the construction of a

shopping center consisting of approximately 950,000 square feet of commercial use and 4,713 parking spaces.

The vegetation communities and land types on the project site include coyote brush scrub (CBS, 0.7 ac), nonnative grassland (NNG, 41.5 ac), southern willow scrub (0.12 ac), disturbed southern willow scrub (0.39 ac), disturbed wetland (0.22 ac), nonnative vegetation (0.1 ac), disturbed land (21.9 ac), and developed land (27.4 ac). No sensitive plant or animal species were detected onsite but three sensitive bird species were detected adjacent to the project site in the San Luis Rey River.

The Wildlife Agencies appreciate the opportunity to comment on the draft EIR for the Pavilion Project. We also appreciate the applicant's willingness to incorporate revisions to the project footprint to minimize impacts to sensitive resources. Because the proposed project would be entirely inconsistent with the City's SAP and the approved MHCP, the Reduced Project / Draft Subarea Plan Alternative should be adopted as the approved project. We offer the attached comments and recommendations, which predominantly address the Reduced Project / Draft Subarea Plan Alternative, to assist the City in avoiding, minimizing, and adequately mitigating project-related impacts to biological resources, and to ensure that any approved project is consistent with all applicable requirements of the City's draft SAP.

The Wildlife Agencies appreciate the opportunity to assist in resolving this issue. Please contact Marci Koski (Service) at (760) 431-9440 or Christine Beck (Department) at (858) 637-5511 if you have any questions or comments concerning this letter.

Sincerely,

Kathleen Brubaker
Acting Assistant Field Supervisor
U.S. Fish and Wildlife Service

Stephen M. Juarez
Environmental Program Manager
California Department of Fish and Game

cc: State Clearinghouse (by fax only)

Enclosures (3)

ENCLOSURE 1

Specific Comments on the Pavilion at Oceanside Draft EIR,
City of Oceanside, California

1. The Executive Summary states that the "applicant has indicated its willingness to proceed" with the Reduced Project / Subarea Plan Alternative (p. S-9). This language should be included in Section VI-C, which evaluates this alternative to the proposed project. Also, all of the additional information requested, and conditions given, in our letter dated December 12, 2007 (Enclosure 2), regarding the wildlife corridor and nonnative grassland mitigation credits should be incorporated into the final EIR. The Wildlife Agencies require the additional information and agreement from both the City and applicant on the conditions given in our previous letter prior to granting final concurrence on the project. 59.

2. The final EIR should include a discussion addressing impacts to least Bell's vireo and coastal California gnatcatcher, including the acreage of impacts to critical habitat and the proposed mitigation to offset these impacts. 60.

3. Direct impacts to wetland and riparian habitats, regardless of whether they are jurisdictional, require mitigation that adheres to the MHCP mitigation ratios and no-net-loss policy. According to the draft EIR, the project would impact 0.12 acre southern willow scrub, 0.39 acre disturbed southern willow scrub, and 0.22 acre of disturbed wetland, for a total of 0.73 acre of impact. However, the project proposes to mitigate this impact with only 0.28 acre of wetland creation, which would not meet the MHCP ratios and no-net-loss requirement. To achieve a no-net-loss of wetlands, the final EIR should include at least 0.73 acre of wetland/riparian creation as mitigation for 0.73 acre of impacts to these habitats; the remaining mitigation obligation to achieve the MHCP ratios may be met with purchasing mitigation credits at a bank or through arundo removal pending concurrence with the Wildlife Agencies. 61.

4. The Biological Technical Report and the Executive Summary (p. S-10) state that wetland mitigation credits (0.36 ac) will be purchased from the Mission Resources Conservation District (MRCD) arundo removal program. However, the body of the draft EIR does not discuss this mitigation proposal in any detail. We recommend that the final EIR include a brief discussion of MRCD, a map where MRCD will implement the arundo removal, and that the arundo removal occur on property that will be conserved and managed in perpetuity (e.g., City-owned lands within the San Luis Rey River). The Department requires that the applicant submit a complete Lake or Streambed Alteration Program (LSAA) notification package and fee to the Department (pursuant to Section 1600 et seq. of the Fish and Game Code). Final acceptance of compensatory mitigation ratios for impacts to Department jurisdictional areas and the wetland mitigation plan will be determined during the formal application process for the LSAA. 62.

5. Although the draft EIR states that the proposed Wetland Mitigation Plan (Helix 2008) is included as Appendix B, Appendix B of Volume 1 is the Air Quality Report and Appendix B of the Biological Technical Report is Animal Species Observed or Detected. 63.

59. This comment is noted. The applicant has acknowledged its willingness to implement the Reduced Project / Subarea Plan Alternative as noted in the FEIR and no further changes to the DEIR are necessary. Responses to the Wildlife Agencies' letter dated December 12, 2007 are provided in Response to Comments 65-93.

60. Critical habitat areas are shown on Figure IV.C and discussed on Pages 66 and 67 of the DEIR, and on Page 19 of the biology report in Appendix C of the DEIR. The proposed project and the Reduced Project / Subarea Plan Alternative would occur within 60.4 acres of least Bell's vireo designated critical habitat, and 7.1 acres of coastal California gnatcatcher designated critical habitat.

The critical habitat acreage on the project site for these species represents a very small percentage of the overall critical habitat designations for many species based on lot lines or section lines (cartographic features) and not based on actual habitat or adjacent areas needed for habitat to function, as is the case here.

Neither of these species have been observed or are expected to occur within the project footprint for the proposed project or the Reduced Project / Subarea Plan Alternative, as analyzed in the biology report. It is noted that primary constituent elements for habitat for both of these species does not occur within the project footprint. Since the project would have no direct impacts to these species or their habitats, no mitigation is proposed (although, as discussed elsewhere, the Applicant has agreed to implement the Reduced Project / Subarea Plan Alternative that is intended to promote regional movement opportunities for the gnatcatcher). Mitigation for impacts to designated critical habitat is not required due to the lack of these species and primary constituent elements of their habitat. It should be noted that the Off-Site Pala Road Extension Alternative to the north would impact 8.8 acres of designated critical habitat for the least Bell's vireo. much of which is occupied by that species, and 0.6 acres of designated critical habitat for the gnatcatcher that does not have primary constituent elements for that species. Mitigation for impacts to wetland habitat caused by this road extension would require an estimated 17 acres of mitigation. The DEIR does not identify a mitigation location for this substantial impact. The issue of where the mitigation would occur relative to critical habitat would be resolved during the Section 7 consultation required for that alternative.

61. The proposed mitigation for wetlands is provided on Page 72 of the DEIR. The Wetland Mitigation Plan, which was prepared in December 2007 but inadvertently omitted from Appendix C of the DEIR, is attached following this Response to Comment. Due to the highly disturbed nature of the habitats, their landscape position away from the San Luis Rey River, and being in the midst of disturbed/developed areas, adequate compensation for lost functions and values can be achieved by enhancing the functions and values of important but impaired existing wetlands in combination with creation of 0.28 acres of new wetland riparian habitat. The small disturbed wetland/riparian habitats on the project site are of low quality and appear to be sustained (at least predominantly) by runoff from imperious surfaces from the adjacent drive-in theater. The proposed mitigation plan to create 0.28 acres of high quality wetlands north of the project site, and the enhancement of additional acreage of wetlands in the San Luis Rey River would provide result in higher overall functions and services than what is being lost on site. The onsite wetlands do not support endangered species whereas the enhanced habitats within the San Luis Rey River are known to support them.

62. This comment is noted. The Mission Resource Conservation District mitigation has been typically used to mitigate many other projects located in Oceanside. This program requires payment into a fund for this non-profit organization to use for exotic species removal. The exact location of the mitigation is not determined in advance, although it would occur within the San Luis Rey River. It is noted and agreed that a Streambed Alteration Agreement would need to be obtained and that review and approval of the compensatory mitigation ratios and the wetland mitigation plan by the Department of Fish and Game will be determined during the wetland permit process.

63. See Response to Comment # 61.

THE PAVILION AT OCEANSIDE

MITIGATION PLAN

December 28, 2007

Prepared for:

THOMAS ENTERPRISES, INC.
2385 Shelter Island Drive, Suite 202
San Diego, California 92106

Prepared by:

HELIX ENVIRONMENTAL PLANNING, INC.
7578 El Cajon Boulevard, Suite 200
La Mesa, California 91941-4646

The Pavilion at Oceanside
Mitigation Plan

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I. INTRODUCTION

This report presents a mitigation plan for wetland impacts associated with development of the Pavilion at Oceanside property. The mitigation will be conducted in compliance with U.S. Army Corps of Engineers (Corps; permit pending), Regional Water Quality Control Board (RWQCB; permit pending), California Department of Fish and Game (CDFG; permit pending), and City of Oceanside Environmental Impact Report (EIR) requirements for jurisdictional impacts. Mitigation within the approved site will be maximized, and the additional mitigation required will be acquisition of wetland credits and is not addressed in this plan. The goal is to create wetland habitat to mitigate for habitat loss from project implementation. The expanded habitat is expected to approach the function and value of established habitat within five years.

II. PROJECT DESCRIPTION

A. PROJECT LOCATION

The approximately 92.3-acre Pavilion at Oceanside project site is located in Oceanside, California (Figure 1) west of Fireside Street and immediately north of Mission Avenue and State Route (SR) 76 (Figure 2).

The project site is included in the Review Draft: Final Oceanside Subarea Habitat Conservation Plan HCP)/Natural Communities Conservation Plan (NCCP; Draft Subarea Plan; AMEC and CBI 2004) for the Multiple Habitat Conservation Program (MHCP). It is not located within a Pre-approved Mitigation Area (PAMA) under this draft plan.

B. PROJECT DESCRIPTION

The proposed project includes construction of an approximately 881,400 square foot commercial shopping center, including a variety of retail shops, a movie theater, restaurants, health club, and future hotel with pedestrian linkages, open space, and parking. Access to the proposed project would be from Foussat Road and Mission Avenue. Grading work for the project would include import of fill to allow for appropriate drainage and utilities to serve site development.

C. PROJECT IMPACTS

Implementation of the proposed project would result in direct impacts to approximately 42.9 acres of sensitive vegetation communities: 0.51 acre of southern willow scrub (including disturbed), 0.22 acre of disturbed wetland, 0.7 acre of coyote brush scrub (including disturbed), and 41.5 acres of non-native grassland (including disturbed). Impacts to sensitive vegetation communities are considered significant. Non-native vegetation, disturbed habitat, and developed land are not considered sensitive habitats. These impacts have been considered and accounted for in the project's biological technical report (HELIX 2007).

1. Wetland Communities

Permanent impacts to jurisdictional areas would result from the development of the proposed project (Figure 3; Table 1). Federal (Corps) jurisdictional areas affected by the project consist of 0.27 acre of wetlands, and State (CDFG) jurisdictional areas affected by the project consist of 0.28 acre of wetlands. Wetland vegetative areas not considered jurisdictional by Corps and CDFG are considered jurisdictional by the City under the NCCP; Draft Subarea Plan (AMEC and CBI 2004). Under this plan all impacted wetland vegetation communities (southern willow scrub, southern willow scrub – disturbed, and disturbed wetland) are within Habitat Group A. The proposed project would impact 0.73 acre of City jurisdictional wetland habitat.

Table 1
JURISDICTIONAL IMPACTS (acre)

HABITAT	JURISDICTIONAL AREA IMPACTS (acre)		
	Corps	CDFG	Draft City NCCP
Southern willow scrub	.11	.12	.12
Southern willow scrub - disturbed	---	---	.39
Disturbed wetland	.16	.16	.22
TOTAL	.27	.28	.73

III. MITIGATION REQUIREMENTS

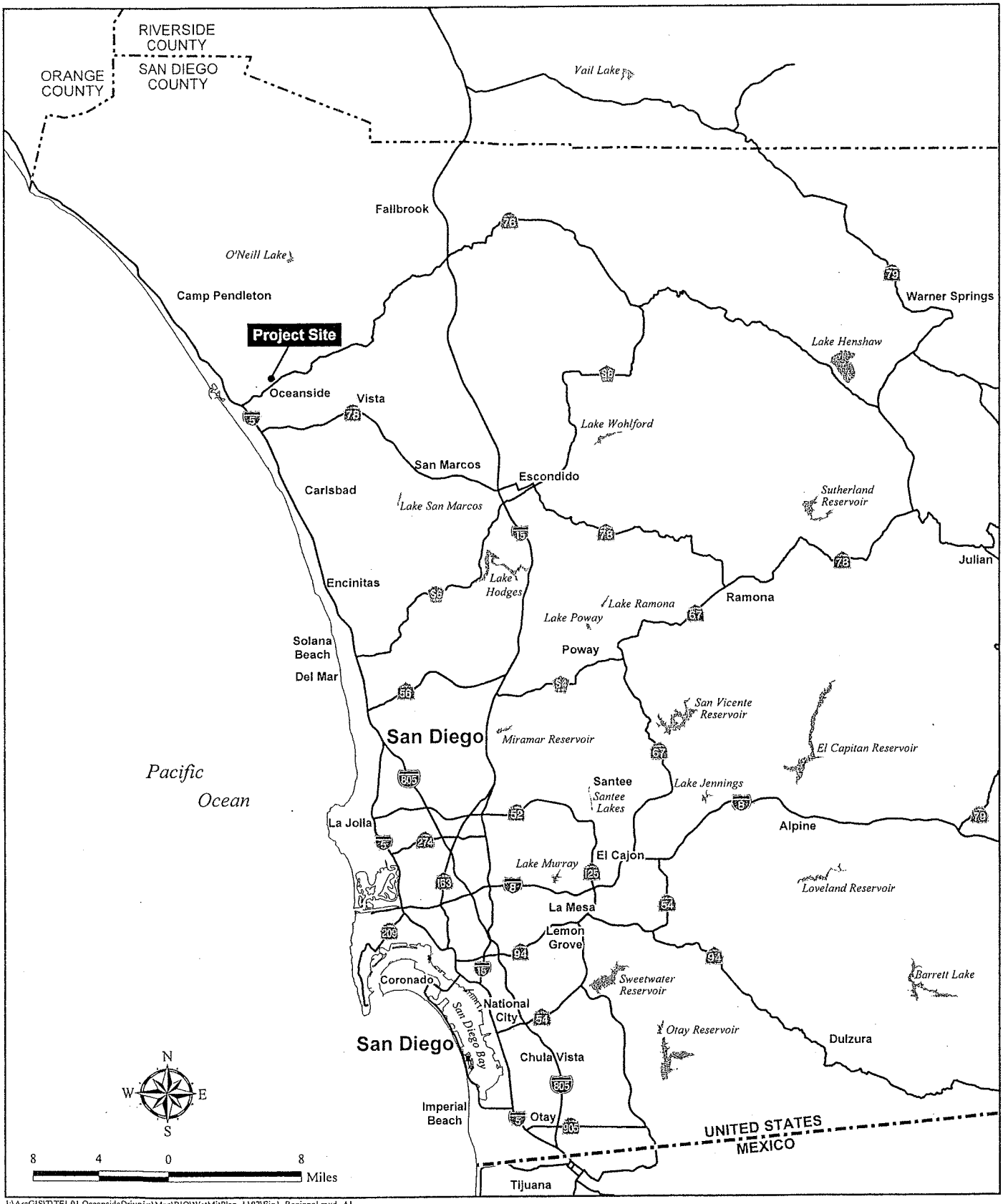
A. WETLAND COMMUNITIES

Jurisdictional impacts due to permanent project impacts will be mitigated through a combination of on-site expansion (creation) as well as the purchase of mitigation credits from an acceptable mitigation bank. Impacts to southern willow scrub will be mitigated at a 3:1 ratio. Impacts to disturbed southern willow scrub and disturbed wetland will be mitigated at a 2:1 ratio. In order to comply with the no net loss policy of wetland habitat, a minimum 1:1 ratio must be provided for with creation of habitat. Table 3 summarizes the mitigation requirements.

Table 3
JURISDICTIONAL MITIGATION REQUIREMENTS*

HABITAT	IMPACT	MITIGATION	
		Ratio	Acreage
Southern willow scrub	.12	3:1	.36
Southern willow scrub - disturbed	.39	2:1	.78
Disturbed wetland	.22	2:1	.44
TOTAL	.73	---	1.58

*With the exception of ratios, all numbers are in acres(s)



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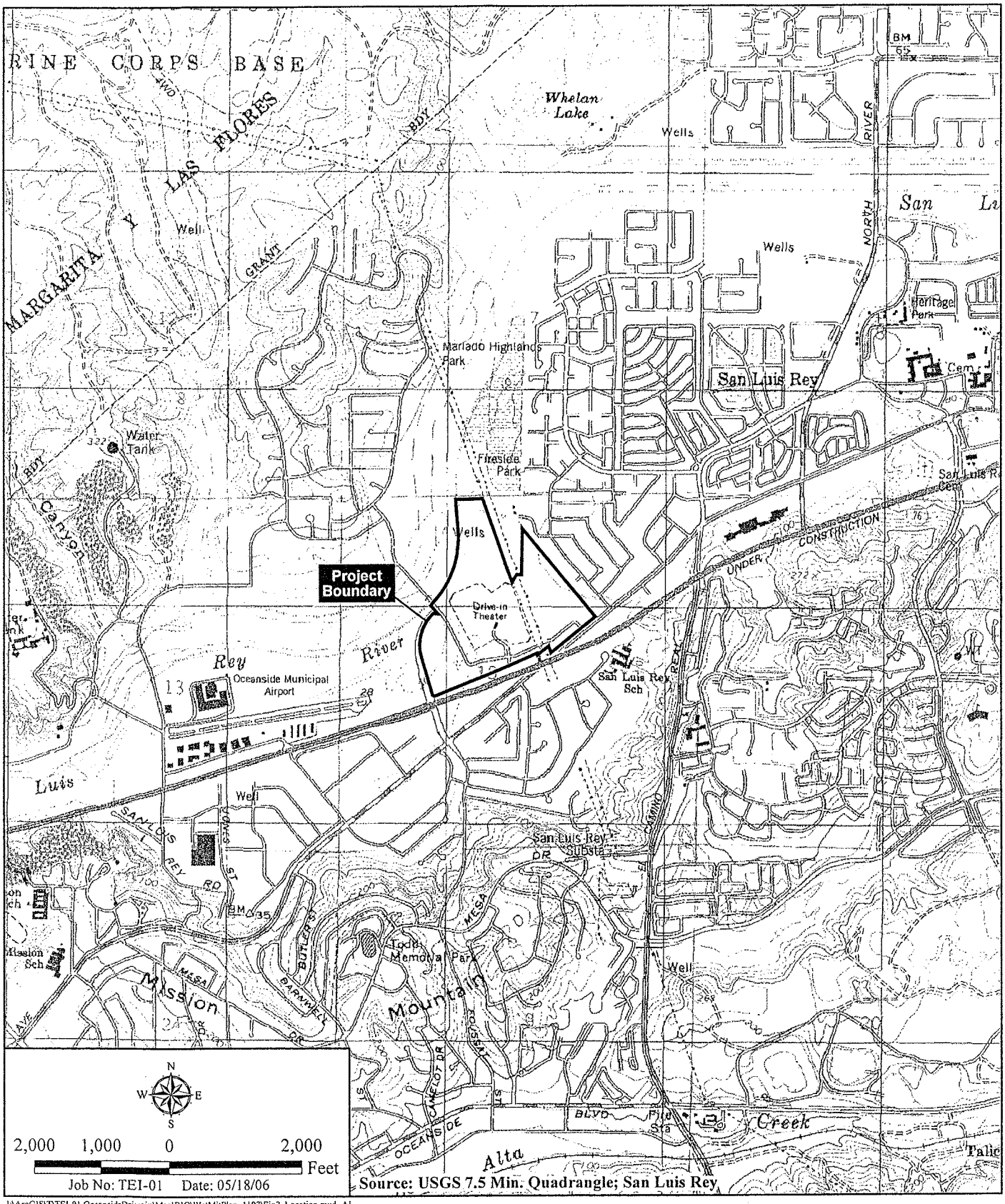
Regional Location Map

THE PAVILION AT OCEANSIDE

HELIX

Figure 1



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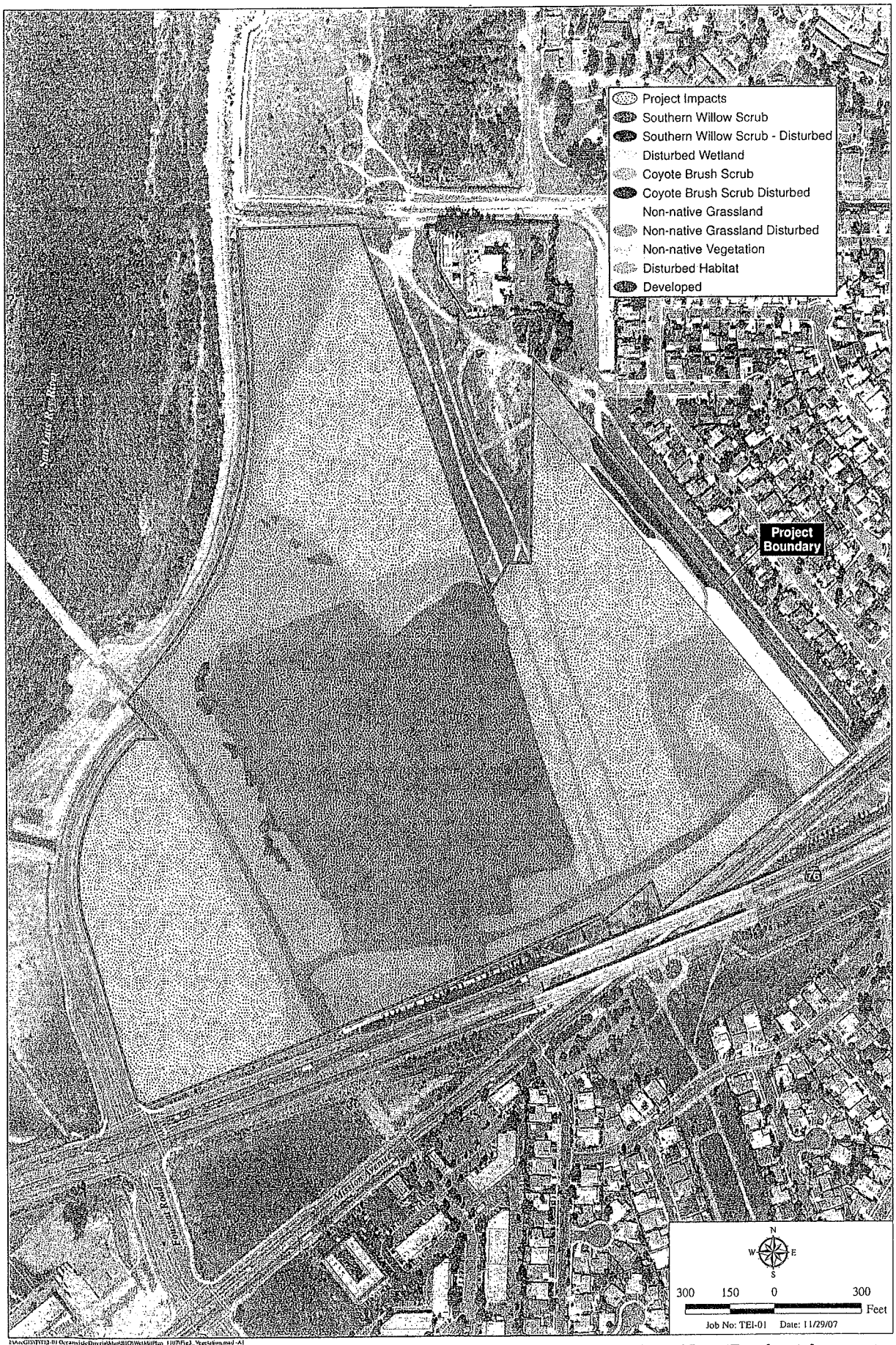
Project Location Map

THE PAVILION AT OCEANSIDE

HELIX

Figure 2



Vegetation Map/Project Impacts

THE PAVILION AT OCEANSIDE

Figure 3

HELIX

IV. MITIGATION LOCATION

A. RESTORATION LOCATION

The wetland mitigation site in an area is considered under the NCCP; Draft Subarea Plan (AMEC and CBI 2004) as having a high potential for restoration – VERIFY!!!. It is located approximately 500 feet north of the project boundary (Figure 4). Approximately 0.46 acre of wetland habitat will be created along with a 20-foot wide Diegan coastal sage scrub buffer totaling approximately 0.19 acre (Figure 5). The remaining 1.12 acres of required mitigation will be accomplished by off site acquisition of wetland credits and is not included in this mitigation plan.

B. ENVIRONMENTAL SETTING

The mitigation site (owned by the City of Oceanside) is currently vacant. It is bound by a SDG&E easement to the west and the San Luis Rey river to the east. Currently the mitigation site is disturbed, containing non-native vegetation and dirt roads. Elevation of the mitigation site is approximately 10 feet above that of adjacent wetland vegetation. Associated soil is Riverwash (Bowman 1973).

V. IMPLEMENTATION PLAN

A. RATIONALE FOR EXPECTING IMPLEMENTATION SUCCESS

Based on the location, small size, and hydrology of the wetland restoration area, wetland creation efforts are anticipated to be successful. The area selected for wetland creation is immediately adjacent to existing preserved wetland habitat and extends the boundaries of that habitat. Grading the mitigation area to the same elevation as the existing wetland habitat will restore hydrology in the restoration area.

B. RESPONSIBLE PARTIES

1. Project Proponent

Thomas Enterprises, Inc. will be responsible for financing the installation, maintenance, and monitoring of the wetland restoration mitigation requirements. Thomas Enterprises, Inc. will be responsible for preparation and execution of a conservation easement ensuring preservation in perpetuity. Contact information for Thomas Enterprises, Inc. is provided below.

Mr. Mel Kuhnel, Vice President of Development
Thomas Enterprises, Inc.
2385 Shelter Island Dr., Ste. 202
San Diego, CA 92106
Phone: ??????????

2. Restoration Specialist

Overall supervision of the installation, maintenance, and monitoring of this mitigation project will be the responsibility of a restoration specialist with wetland restoration experience. This person will oversee the efforts of the landscape contractor(s) for the life of the project. Specific tasks of the restoration specialist include educating all participants about mitigation goals and requirements and directly overseeing planting, seeding, weeding, and maintenance. The restoration specialist will ensure that the contractor does not inadvertently impact sensitive habitat areas not contemplated in this plan. When necessary, the restoration specialist will provide the project applicant and contractor with a written monitoring memo, including a list of items in need of attention. The habitat restoration specialist would notify the contractor and responsible party if any requested remediation is not addressed. The restoration specialist also will prepare and submit annual reports as well as a final report to Thomas Enterprises, Inc., City of Oceanside (City), Corps, and CDFG.

3. Landscape Architect

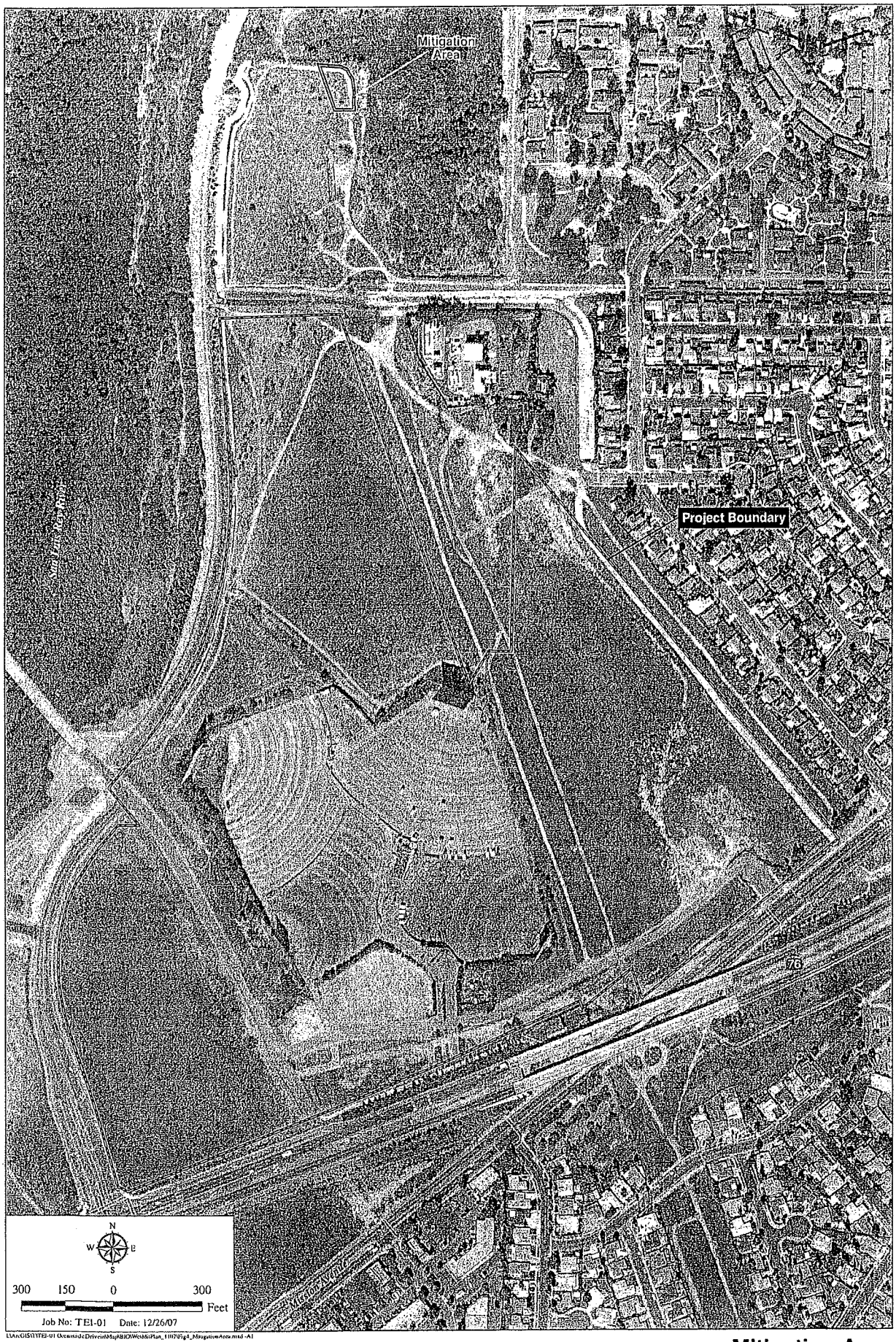
A licensed landscape architect will prepare construction documents, including grading, irrigation, and planting plans. This person will inspect the irrigation system and assist in other inspections (e.g., plant deliveries) as necessary.

4. Installation/Maintenance Contractor

The installation and maintenance contractor(s) will have wetland restoration experience and be under direction of the restoration specialist. Installation will include grading, irrigation installation, seeding, planting, and weed/tree removal. Maintenance following installation completion will occur for a five-year period. The initial four months of the maintenance period is also an establishment period. At least one month prior to the end of this establishment period, the contractor will be responsible for replacing any dead or terminally diseased plants. Plant replacement will be at the direction of the restoration specialist. Different contractors may be used for the installation and maintenance phases of the restoration job. Thomas Enterprises, Inc. may change contractors at its discretion. The contractor(s) will service the entire restoration area as required, and will meet the restoration specialist at the site when requested and perform all checklist items in a timely manner as directed by Thomas Enterprises, Inc. The maintenance contractor will be educated as to the maintenance of native plant habitat and the difference between native plants and weeds. Maintenance would include but not be limited to weed control, trash removal, watering, dead plant replacement, and re-seeding. All activities conducted would be seasonally appropriate and approved by the restoration specialist. The landscape and maintenance contractor(s) will work closely with the restoration specialist to ensure the installation and maintenance of native plant habitat and to determine differentiation between native plants and weeds.

C. IMPLEMENTATION SCHEDULE

Restoration activities will begin as soon after approval of this plan as weather allows and should be completed within one month or as quickly as practicable. Monitoring of the restoration effort will begin with its construction. The monitoring program will continue for a five-year period following completion of the installation as determined by the restoration specialist. Regular monitoring visits will be conducted during the monitoring period with an annual report distributed by December of each year. Annual report results will be used to gauge the success of the restoration effort as well as determine any necessary remedial actions. At the end of the five-year period, a final report will be produced by the



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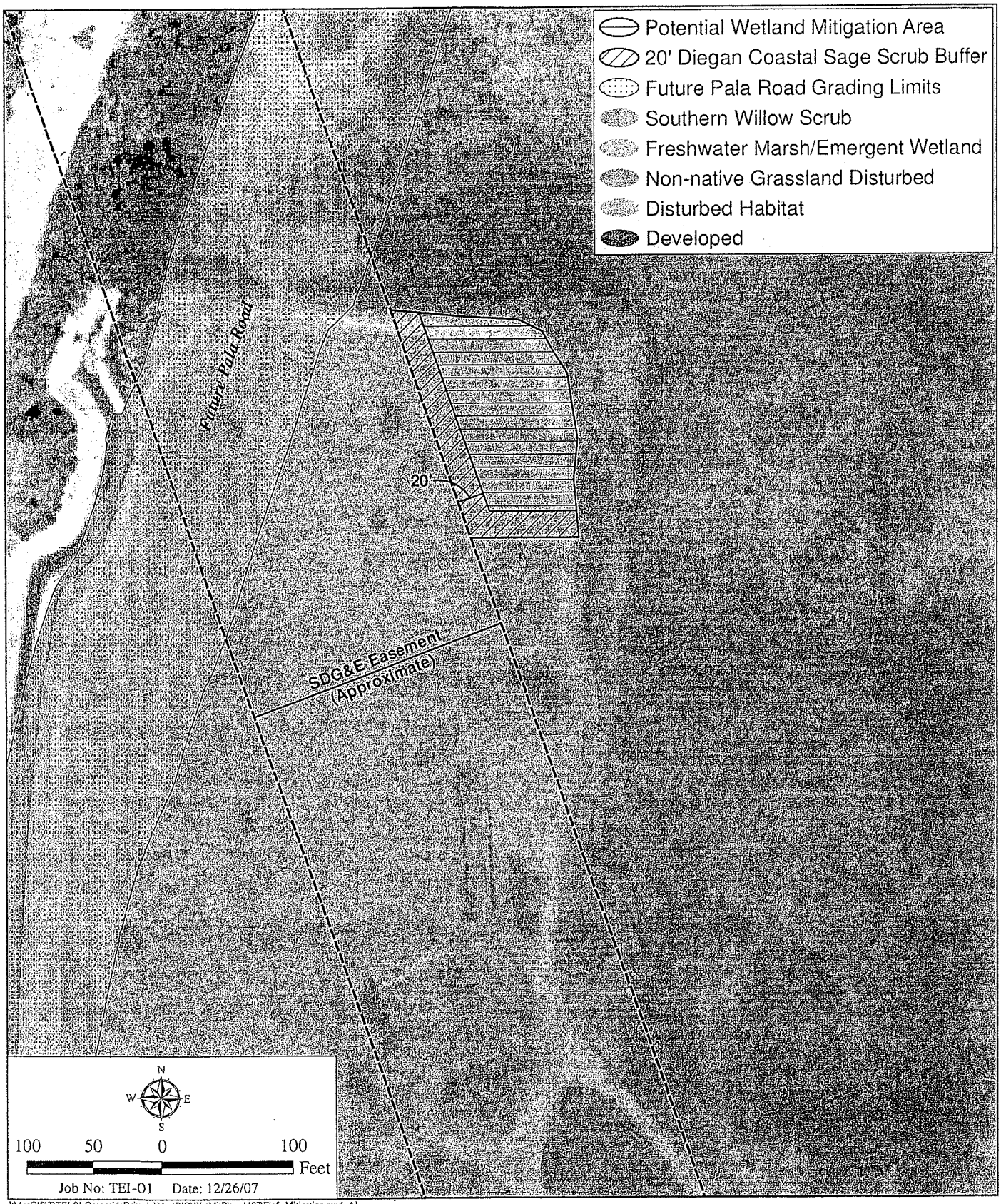
Mitigation Area

THE PAVILION AT OCEANSIDE

HELIX

Figure 4



Wetland Mitigation Area

THE PAVILION AT OCEANSIDE

HELIX

Figure 5

restoration specialist and submitted to Thomas Enterprises, Inc., the City, Corps, and CDFG.

D. SITE PREPARATION

The restoration specialist will mark all areas to be graded and/or avoided with stakes, flags, and/or gypsum. An on-site meeting will be held with the landscape contractor and the restoration specialist to identify sensitive areas and devise a strategy for avoidance prior to initiation of restoration activities. One specific staging area will be established in the proposed development area adjacent to the restoration sites. All vehicles and construction equipment will be restricted to the staging area when not required for restoration activities. An excavator, backhoe, or similar equipment will be used to prepare the site.

E. PLANTING PLAN

1. Wetland Communities

Wetland habitat restoration will consist of the reintroduction of native plant materials in addition to the physical construction described above. Once the area has been graded and irrigation installation is complete, the restoration areas will be planted and seeded. Nursery-grown container plants and/or cuttings and native seed propagated or collected from on-site or nearby sources will be used. Use of all seed and container stock must be inspected and approved by the restoration specialist prior to installation.

Container stock should be installed in holes that are at least 1.5 times larger than the stock. Holes will be dug with mechanical augers where possible and by hand elsewhere. All container stock would be of the size specified in Table 5. Seeding will be conducted either by hand (through a hand-powered whirling seed dispenser) or as the first step in a two-step hydroseed/mulch application process. Hand-seeding is the preferred method whenever practical. Whichever seeding method is employed, seed must be applied prior to the application of any erosion control materials (fiber mulch, blankets, etc.). Hydroseeding/mulching may be conducted only if it can be accomplished without affecting any extant native or restored vegetation, as determined by the restoration specialist. No other soil preparation or seed scarification/inoculation will be required, and no amendments or additives will be used.

Table 5
SOUTHERN WILLOW SCRUB PLANT PALETTE

CONTAINER PALETTE				
Scientific Name	Common Name	Spacing on Center	Grouping Size	Amount to be Ordered
Baccharis salicifolia	mule fat	6 feet	8	350
Salix lasiolepis	arroyo willow	10 feet	5	200
Salix gooddingii	black willow	10 feet	5	200
Salix exigua	sandbar willow	6 feet	6	200
Populus fremontii	Fremont's cottonwood	10 feet	3	50
			TOTAL	1,000

Table 5 (cont.)
SOUTHERN WILLOW SCRUB PLANT PALETTE

SEED MIXTURE			
Scientific Name	Common Name	Percent Purity/ Germination	Amount to be Ordered (lbs)
Ambrosia psilostachya	Western ragweed	20/30	3
Artemisia douglasiana	Douglas mugwort	15/50	3
Baccharis salicifolia	mule fat	10/20	2
Pluchea odorata	marsh fleabane	20/50	2
Isocoma menziesii	goldenbush	40/30	2
		TOTAL	12

2. Diegan Coastal Cage Scrub Buffer

The buffer will be planted and seeded with native vegetation mentioned in Table 6. Methods for planting and seeding are the same as the wetland area.

Table 6
DIEGAN COASTAL SAGE SCRUB BUFFER PLANT PALETTE

CONTAINER PALETTE				
Scientific Name	Common Name	Spacing On Center	Grouping Size	Amount to be Ordered
Artemisia californica	California sagebrush	5	4	120
Encelia californica	California encelia	5	3	110
Eriogonum fasciculatum	California buckwheat	5	6	200
Mimulus aurantiacus	Sticky monkey flower	5	3	60
Salvia mellifera	Black sage	5	3	60
			TOTAL	550

Table 6 (cont.)
DIEGAN COASTAL SAGE SCRUB BUFFER PLANT PALETTE

SEED MIXTURE			
Scientific Name	Common Name	Percent Purity/ Germination	Amount to be Ordered (lbs.)
Artemisia californica	California sagebrush	15/50	1
Deinandra fasciculata	Fascicled tarplant	10/25	1
Encelia californica	California encelia	40/80	1
Erigonum fasciculatum	California buckwheat	50/20	1
Eriophyllum confertiflorum	Golden yarrow	30/70	1
Isocoma menziesii	Goldenbush	40/30	1
Nassella pulchra	Purple needlegrass	70/60	1
Plantago erecta	Dwarf plantain	90/80	1
Sisyrinchium bellum	Blue-eyed grass	95/75	1
		TOTAL	9

F. IRRIGATION PLAN

Irrigation is planned for the wetland restoration areas. Water will be applied infrequently and only as needed to prevent plant and seedling mortality. The irrigation schedule will attempt to develop deep root growth with evenly spaced, infrequent, deep applications of water. To obtain deep penetration of water, the irrigation system may be activated several times in one 24-hour period. Irrigation will be minimized to the extent possible following natural rainfall events.

Once plant material is established and does not require supplemental irrigation, the above-ground portions of the system will be removed. The restoration specialist will determine how and when the system will be removed.

The goal is to obtain germination and growth with the least amount of irrigation. Frequent irrigation encourages weed invasion and leaches nutrients from the soil. Native plantings that are infrequently irrigated may grow slower initially but will ultimately develop into better habitat. As a result, irrigation will be used for the first three years (or less) of the monitoring period. During the final two years, monitoring would determine the success of the project without irrigation.

G. AS-BUILT CONDITIONS

Within six weeks of completion of the site grading and planting, a report will be submitted to the Corps, CDFG, RWQCB, and City that describes the status of the mitigation area. Part of this submittal will be an as-built graphic that depicts deviations in the locations of plantings, structures, and other key features from the construction documents.

VI. MAINTENANCE PLAN

A. MAINTENANCE ACTIVITIES

A five-year maintenance program is proposed to ensure the successful establishment and persistence of the created wetland and upland habitats. The maintenance program will involve removal of trash, weed control, hydrological/topographical modification, and any remedial measures deemed necessary for the success of the restoration program (e.g., re-seeding and re-contouring). Maintenance activities will be directed by the restoration specialist.

Hydrologic conditions will be modified if necessary to assure prolonged periods of inundation to help control exotic species within the wetland creation areas. Care will be taken to avoid impacts to existing wetlands and uplands where these impacts are not part of the project or mitigation plan.

1. General Maintenance

Damage to plants, irrigation systems, and other facilities occurring as a result of unusual weather or vandalism will be repaired as directed by the restoration specialist. The cost of such repairs will be paid for as extra work. The contractor will repair any damage caused by the contractor's inadequate maintenance or operation of irrigation facilities as determined by the restoration specialist.

It is the contractor's responsibility to keep all planted areas free of debris and to monitor irrigation function and scheduling, plant material condition and health, weeding, and erosion control. During the first year of the contract, these events will be conducted twice a month and monthly thereafter during the remainder of the contract.

These maintenance guidelines are specifically tailored for native plant establishment. Maintenance personnel will be fully informed of the habitat creation/enhancement program so that they understand the effort's goals and maintenance requirements. A professional with experience and knowledge in native habitat creation/enhancement maintenance will supervise all maintenance.

2. Weed Control

Particular emphasis will be placed on pro-active weed control. Weed eradication will be conducted as necessary to minimize competition that could prevent the establishment of native species. As weeds become evident, they should be removed by hand or controlled with the proper herbicides. The restoration specialist will oversee weed control by the landscape contractor. Landscape personnel will be trained to distinguish weed species from desirable native vegetation.

Examples of weeds to be controlled include, but are not limited to, Italian ryegrass (*Lolium multiflorum*), pampas grass (*Cortaderia jubata*), rabbitsfoot grass (*Polypogon monspeliensis*), poison hemlock (*Conium maculatum*), fennel (*Foeniculum vulgare*), Italian thistle (*Carduus pycnocephalus*), curly dock (*Rumex crispus*), castor bean (*Ricinus communis*), eastern cocklebur (*Xanthium strumarium*), eucalyptus (*Eucalyptus* sp.), tamarisk (*Tamarix* sp.), black mustard (*Brassica nigra*), artichoke thistle (*Cynara cardunculus*), garland daisy (*Chrysanthemum coronarium*), and Bermuda grass (*Cynodon dactylon*).

A cleared space 18 inches from the base of each container plant will be maintained to minimize competition from other plants during the establishment period or until plants reach 3 feet in height.

3. Other Pests

Insects, vertebrate pests, and diseases will be monitored. Generally speaking, a high threshold of tolerance will be permitted before control measures are considered. As required by law, specific recommendations will be made only by a licensed pest control adviser. All applicable federal and state laws and regulations will be closely followed. The restoration specialist will be consulted on any pest control matters.

4. Fertilization

Fertilizer will not be applied except in extraordinary circumstances and only at the written direction of the restoration specialist.

5. Pruning

No post-installation pruning is necessary unless otherwise directed by the restoration specialist.

B. MAINTENANCE SCHEDULE

Maintenance will be conducted twice a month during the first year of the contract and monthly thereafter during the remainder of the contract following implementation of the mitigation program. The landscape contractor will complete maintenance requests from the restoration specialist within 14 days of any written request or monitoring report.

C. RESPONSIBLE PARTIES

Thomas Enterprises, Inc. will be responsible for ensuring implementation of the maintenance program. The responsible party may change with the sale of the property. Ultimately, the property may be transferred in fee title (subject to Corps, CDFG, RWQCB, and City approval) to a public or private entity specializing in long-term management of open space. If such a transfer were to occur, this entity would become responsible for the maintenance program.

VII. MONITORING PLAN

Monitoring, maintenance, and restoration assessments will be carried out under direction of the restoration specialist. This monitoring program will begin with habitat installation and continue for 5 years. Monitoring will include (1) documenting pre-restoration site conditions; (2) installation monitoring; (3) maintenance monitoring; and (4) technical monitoring. During each visit, the restoration specialist will inspect the site to ensure that the restoration effort is progressing as planned and identify any problems that may affect the effort.

A. PRE-CONSTRUCTION MONITORING

Existing habitats in the restoration area will be mapped on an aerial photo. Pre-installation photos will be taken from designated photo documentation stations. This information will be used later to track the changes in vegetation as a result of site restoration.

B. INSTALLATION MONITORING

A restoration specialist will monitor all phases of the installation process, including site preparation (fencing, grading, and weeding) and installing plants and seed. The restoration specialist must inspect and authorize each phase of work before the next phase may begin. The Corps, CDFG, RWQCB, and City will be notified in writing that installation is to begin at least 10 days before the anticipated start date.

C. MAINTENANCE MONITORING

Maintenance monitoring will consist of general site inspections focusing on visual observations of native plant establishment and growth and other site conditions (e.g., amount of irrigation, weed cover, etc.). Maintenance monitoring will be conducted on a regular basis during the five-year maintenance and monitoring period (Table 8).

Table 8 MAINTENANCE MONITORING SCHEDULE	
PHASE	SCHEDULE
Installation	Daily
Post Installation	
Year 1	Monthly
Year 2	
February to July	Monthly
August to January	Twice: September and December
Years 3 through 5	Quarterly: March, June, September, and December

Monitoring memos noting issues with plant establishment, irrigation, sediment control, etc., will be provided, as necessary to the contractor(s) and project proponent.

D. TECHNICAL MONITORING

In addition to maintenance monitoring visits, the restoration specialist will conduct an annual technical monitoring visit in September of each year for wetlands during the five-year maintenance and monitoring period. The visits would be conducted in September to coincide with the peak of the wetland vegetation growing season. The exact timing of the visits will depend on site and weather conditions.

Technical monitoring will include both qualitative (visual assessment) and quantitative (transect data collection) sampling within the wetland restoration areas. This sampling will include assessments of cover (native and non-native), height of tree and shrub species, survivorship of container plantings, and lists of wildlife and plant species observed on site each year. Monitoring in Years 1 and 2 will be qualitative in nature and be based on a visual and photographic survey of the restoration areas. Monitoring in Years 3 through 5 will be quantitative in nature and be conducted in the wetland restoration areas. Success criteria milestones are provided in Section VIII, below.

1. Transect Sampling

A total of one, 50-meter (m) long transect will be used to collect data for the technical monitoring within the wetland creation area. The transect will be randomly located during the first quantitative sampling event (to occur in Year 3) and permanently marked with rebar to facilitate their use in subsequent years. Species data will be collected along the transect using the point intercept line transect sampling methods described in the California Native Plant Society's Field Sampling Protocol (Sawyer and Keeler-Wolf 1995). Species cover data will be collected by recording all of the species intercepted at each 0.5-m interval along the length of each transect. Vegetation will be recorded separately for the herb (0 to 0.6 m), shrub (0.6 to 2 m), and tree (greater than 2 m) layers. Species richness data will be collected by noting all species occurring within 5 meters of each transect.

2. Photo Documentation

In addition to the technical measurements, several permanent stations for photo documentation will be established in each habitat type prior to installation. Photos will be taken during each annual technical assessment and included in the respective year's annual report.

3. Annual Reports

An annual report will be prepared each year during the five-year monitoring period. As noted in the technical monitoring section above, the first two annual reports will be based on qualitative data and focus on any possibly needed adjustments to ensure ultimate success of the mitigation project. For Years 3 through 5, annual reports will use quantitative data to determine success of the mitigation effort. Each report will evaluate the success of the mitigation effort to date along with any recommendations for future work that may be deemed necessary. Following review by the project proponent, the annual reports will be submitted to the appropriate regulatory agencies.

VIII. FINAL SUCCESS CRITERIA

The following sections provide standards to determine successful completion of the mitigation plan. Attainment of these standards indicates that the habitat restoration effort is succeeding and has the habitat function and value specified for this plan. These success criteria apply to Years 3 through 5 of the monitoring period; there are no success criteria for Years 1 and 2. Methods to be used to measure these success criteria are described in the following text.

A. VEGETATION CRITERIA

As determined by transect surveys, species richness, native, and non-native (weed) plant species cover will be used to determine project success. Annual performance goals have been set to track the progress of the mitigation effort.

1. Native Species Cover

Project success will be determined based on native and non-native (weed) plant cover. Native vegetation cover will be measured separately for herb, shrub, and tree (as applicable) life forms within each quantitatively sampled habitat type. The cover of herbaceous and shrub species should steadily increase over time. No specific richness criteria are established for Years 1 or 2 in the wetland or upland restoration areas. The wetland creation (and restoration) areas should attain a minimum of 75 percent coverage after 3 years. At the end of the five-year monitoring period, native species cover will be at least 90 percent for wetland habitats within the restoration areas. Table 9 below summarizes wetland vegetative cover success criteria. If annual goals for vegetative cover are not met, remedial measures, including reseeding, planting, and weeding may be implemented to ensure final success.

Table 9 WETLAND VEGETATIVE COVER SUCCESS CRITERIA (percent)		
YEAR	NATIVE SPECIES	WEEDS*
3	75	15
4	80	12
5	90	10

*Less than or equal to

2. Exotic Species (Weed) Cover

Weeds are typically a problem with habitat creation/restoration, particularly at the outset of the project. As the creation/restoration takes hold, weed problems should decrease. Many weeds have become naturalized; therefore, the tolerance for weeds should reflect what is present at the existing habitats on site. The measure for tolerance should be total cover of weed species. Control of weed species categorized as High or Moderate in the California Invasive Plant Council (Cal-IPC) 2006 Invasive Plant Inventory shall be conducted. Although weeds are expected to be a problem, focused maintenance efforts will reduce weed cover to an acceptable level. By Year 3 of the monitoring period, weed coverage will not exceed 15 percent within the restoration areas. At the end of the five-year monitoring period, weed species will occupy no more than 10 percent of the restored habitat.

3. Species Diversity and Recruitment

Species diversity and recruitment are closely linked. Species diversity is the number of species in a given area: the higher the number of species, the greater the diversity. Recruitment is the successful, natural reproduction and/or establishment of plants in a given area. When recruitment is achieved by many different species, diversity will increase. However, recruitment may not necessarily increase species diversity if, for example, only one species is successfully reproducing. Only through the successful introduction and establishment of different species does diversity increase. The diversity remains stable through successful recruitment of new individuals for each species. During quantitative monitoring, species richness will be determined through the use of belt transects. The annual success criterion for species richness area is 75 percent of the number of species planted and seeded. Remedial measures (i.e., seeding and/or container stock installation) will be implemented as needed to ensure the successful introduction and recruitment of many different species within the creation areas and to ensure eventual achievement of the long-term goals.

B. TARGET FUNCTION AND VALUE

The goal of this mitigation effort is to increase the amount of native wetland habitat along the San Luis Rey river. The function and value of the created habitat will be higher than that impacted by the proposed project. Wetland habitat located within the proposed project is patchy and contains high levels of disturbance and non-native species. It is expected that created wetland vegetation will provide increased habitat function and services (i.e., wildlife use) for wetland species as well.

C. TARGET HYDROLOGICAL REGIME

In the wetland creation area, the hydrological regime will be altered from an upland regime (supporting disturbed habitat and non-native vegetation) to a wetland regime through grading, non-native species removal and replanting/seeding. The long-term source of water to the mitigation area will be surface and sub-surface flow associated with the San Luis Rey river, which the mitigation site is part of.

IX. COMPLETION OF MITIGATION

A. NOTIFICATION OF COMPLETION

The Corps, CDFG, RWQCB, and City will be notified of completion of the restoration/mitigation effort through the submittal of the final (Year 5) monitoring report. This final report must show that the goals of the mitigation program (as described above in Section III) have been met.

B. CONFIRMATION

If the project meets all success standards at the end of the five-year monitoring period or sooner, then the mitigation will be considered a success; if not, the maintenance and monitoring program will be extended one year at a time until the standards are met. Specific remedial measures (approved by the Corps, CDFG, RWQCB, and City) will be used during any such extension. Monitoring extensions will be done only for areas that fail to meet final success criteria. This process will continue until all Year 5 standards are attained or until the Corps, CDFG, RWQCB, and City determine that other mitigation measures are appropriate. Should the mitigation effort meet all goals prior to the end of the five-year monitoring period, the Corps, CDFG, RWQCB, and City, at their discretion, may terminate the monitoring effort. If requested, a site visit may be conducted with the Corps, CDFG, RWQCB, and City to verify site conditions.

X. CONTINGENCY MEASURES

A. INITIATING PROCEDURES

If any of the agencies determines upon receipt of any of the annual monitoring reports that the restoration effort is not meeting success standards for the project, the City shall notify Thomas Enterprises, Inc. in writing that the restoration effort may require augmentation for successful implementation. Thomas Enterprises, Inc. shall then have 30 days to respond to the correspondence, confirming their agreement that contingency measures will be required. Thomas Enterprises, Inc. shall be responsible for all costs associated with restoration, monitoring, and any remedial measures.

B. NATURAL DISASTER

Should the restoration area fail due to a natural disaster such as an earthquake or flood, Thomas Enterprises, Inc. will not be held responsible for replanting of any wetland or upland habitats.

XI. REFERENCES CITED

Bowman, R.H. 1973. Soil Survey of the San Diego Area, California, Part I. U.S. Department of Agriculture.

California Invasive Plant Council (Cal-IPC). 2006. California Invasive Plant Inventory. February. URL: http://www.cal-ipc.org/ip/inventory/index.php.

HELIX Environmental Planning, Inc. (HELIX) 2007a. Biological Technical Report for the Oceanpointe Property. May 11.

2007b. Jurisdictional Delineation Report for the Oceanpointe Property. May 11.

Sawyer, J.O. and T. Keeler-Wolf. 1995. A Manual of California Vegetation. CNPS. 472 pp.

Please include the Wetland Mitigation Plan in Appendix C with the other biological information.

6. The Off-site Pala Road Extension Alternatives Analysis states that four sensitive bird species could be impacted by this alternative including the least Bell's vireo (*Vireo bellii pusillus*; vireo), yellow-breasted chat (*Icteria virens*), yellow warbler (*Dendroica petechia*), and Cooper's hawk (*Accipiter cooperii*). Please update Table 4 in the Biological Technical Report to include the vireo, chat, and warbler. Also, provide some text that describes when and where these species were seen relative to the proposed project site. Lastly, please note that the Cooper's hawk is no longer considered a California Bird Species of Special Concern.

64.

64. The December 28, 2007 letter report in Appendix E of the Biology Report includes a complete analysis of impacts associated with the Off-Site Pala Road Extension Alternative. Page 10 of that report provides the requested information for these species. See also Figure 1 of that report for a graphic that shows the location of these species relative to both the Off-Site Pala Road Extension Alternative and the proposed project. Suitable habitat for least Bell's vireo, yellow-breasted chat and yellow warbler do not occur on the proposed Pavilion project site. Although Cooper's hawk may be observed flying over the proposed project property, no nests for this species have been observed onsite, nor is nesting for this species anticipated onsite. The mitigation measure entitled "Seasonal Restrictions on Grading" on Page 72 of the DEIR address potential impacts to nests if observed on site. The correction to the Cooper's Hawk status as a California Bird Species of Special Concern is noted.

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In Reply Refer To:
FWS/CDFG-2007B0017-2008TA0069

Mr. Jerry Hittleman, Acting City Planner
City of Oceanside Planning Department
300 North Coast Highway
Oceanside, California 92054

DEC 1 2 2007

Subject: Proposed Wildlife Corridor and Non-Native Grassland Mitigation Credits for the Pavilion Project, City of Oceanside, California

Dear Mr. Hittleman:

The California Department of Fish and Game (Department) and the U.S. Fish and Wildlife Service (Service), hereafter referred to as the Wildlife Agencies, are responding to electronic messages sent from Tom Huffman (Helix, September 14, 2007) and Mark McGuire (September 26, 2007) on behalf of the above-referenced project's applicant, Thomas Enterprises. The messages were sent to follow-up on an August 31, 2007, meeting with the Wildlife Agencies, City, applicant and their representatives, and requested Wildlife Agencies' response to the applicant's proposal for the Pavilion Project. The Wildlife Agencies preliminarily agree with the applicant's proposal, but need additional information and agreement from both the City and the applicant on conditions identified below before granting final concurrence.

1. In addition to the 0.7 acre easement for the existing concrete storm drain easement, all existing and proposed easements within the 200-foot wildlife corridor on the eastern side of the property should be identified and mapped. The acreage of this storm drain (i.e., 0.7 acre), and any additional easements that would preclude coastal sage scrub (CSS) restoration, preservation and management, should be subtracted from any mitigation credit received for restoring the corridor with CSS (e.g., 0.7 acre should be subtracted from proposed 3.3 acres of CSS restoration for a total of 5.2 acres of credit at a 2:1 ratio). While the science review panel does not believe that the concrete storm drain alone will substantially reduce functionality of the corridor for gnatcatchers if CSS were restored on either side of it, this same evaluation will need to be made for any additional easements within the corridor. If it is determined that the cumulative impacts of easements will impact the functionality of the corridor, the corridor may need to be widened on site. Alternatively, the storm drain and any other easements could be relocated to outside of the 200-foot corridor.

65.

TAKE PRIDE IN AMERICA

65. As a way to further the goals of the City of Oceanside draft Subarea Plan with respect to creating "stepping-stone corridors" for wildlife movement (especially for sensitive avian species such as the California gnatcatcher), the applicant is willing to adopt the Reduced Project / Subarea Plan Alternative to improve connectivity and movement corridors. This alternative pulls back from the eastern boundary of the property and, in combination with an adjacent utility right of way owned in fee by SDG&E, allows for the establishment of the 200-foot corridor referenced in this comment.

Additional utility easements within the 100-foot onsite corridor include the concrete storm drain, as well as some underground water and sewer lines. This alternative includes minor grading to recontour this area to accommodate stormwater drainage, and revegetation of the area outside the existing storm drain box with appropriate native coastal sage scrub species that will enhance this area for gnatcatcher movement. Although the 100-foot onsite corridor will be revegetated with native species, the applicant does not propose to receive any habitat restoration mitigation credit for the 100-foot onsite corridor enhancement. Please also see Response to Comment No. 116 for additional information.

2. The entire 100-foot wide SDG&E utility easement must be restored to CSS with cover sufficient to attract and sustain dispersing gnatcatchers, and be preserved and managed in perpetuity. Written authorization must be obtained from SDG&E stating that restoration, preservation and management of CSS would be allowed within their 100-foot easement in perpetuity. Additional credit may be given to satisfy the applicant's non-native grassland (NNG) mitigation requirements for any CSS restoration, preservation and management done by the applicant in the 100-foot SDG&E easement. 65

3. Written authorization must be obtained from the City's fire marshal allowing CSS restoration within the entire 200-foot corridor. Any restrictions required by the fire marshal (e.g., plant species restrictions, density limitations, or fuel modification zone clearing requirements) must be agreed to by the Wildlife Agencies. The Wildlife Agencies must agree to the planting pallet for this restoration area. 66.

4. The City should commit to ensuring that the off-site western corridor identified in the independent scientists' report and draft SAP will be restored, preserved and managed in perpetuity. Additional credit may be given to satisfy the applicant's NNG mitigation requirements for any CSS restoration, preservation and management done by the applicant in the western corridor. 67.

5. The property owner has agreed to place a perpetual conservation easement over the 100-foot corridor on the eastern boundary of the project site. The conservation easement must be prepared for review and approval by the Wildlife Agencies. 68.

6. The applicant has agreed to maintain the corridor for the life of the 90-year lease of the property. However, because of the importance of this corridor, the habitat must be managed in perpetuity. 69.

7. A CSS restoration and long-term management plan (including a non-wasting endowment or similar funding mechanism for perpetual management) for the 200-foot corridor must be prepared for review and approval by the Wildlife Agencies. 70.

8. All NNG mitigation for the proposed project should occur in the WCPZ consistent with the draft SAP. The proposed project would impact approximately 39.7 acres of NNG, which would require 19.9 acres of mitigation at a 0.5:1 ratio. Subtracting the 5.2 acres of credit given for restoration of the on-site gnatcatcher corridor, the applicant would still need 14.7 acres of NNG mitigation in the WCPZ. 71.

9. Proposed impacts to other habitats, including southern willow scrub, disturbed wetland, disturbed habitat, and non-native vegetation, should be identified and mitigated consistent with the draft SAP. 72.

10. The City's SAP would need to be modified to show the proposed 200-foot wide corridor along the eastern border of the project site. 73.

66. The applicant is not proposing to revegetate the adjacent SDG&E corridor as part of this project. The applicant has agreed to adopt a project alternative that preserves 100 feet on site, that when combined with the 100-foot area off-site, provides a 200-foot wide area of undeveloped land that would help meet the Draft Subarea Plan's goal to provide a corridor for gnatcatchers to disperse to suitable habitat areas to the north and south of the Pavilion Project site. It is not this project's responsibility to revegetate the off site SDG&E corridor, but rather this would need to be implemented as part of the overall Subarea Plan goals. The City understands that restoration of this corridor needs to be part of the long term implementation of the City's Subarea Plan, and will work with SDG&E to allow use of these fee owned lands for conservation efforts to meet the NCCP goals. Please see Response to Comment No. 115.

67. With regard to getting the City of Oceanside's Fire Marshal approval of coastal sage scrub restoration within the SDG&E corridor, please see comment 63b. With regard to getting fire marshal approval of the functional habitat restoration for the 100-foot corridor, it is acknowledged that the fire marshal will need to approve final landscape plans. The proposed plant list for the on-site 100-foot area consists of native species including coastal sage scrub constituents that are compatible with the City's recommended plant guidelines. Final species selection will be subject to approval by the fire marshal as part of landscape working drawings. This will be a condition of approval and included in the MMRP.

68. Comment noted. The issue of restoration, preservation and management of an off-site western corridor is a function of the Draft Subarea Plan that is not part of the scope of the Pavilion Project.

69. The City will require the conservation easement over the on-site corridor as a condition of project approval (also see the MMRP) and agrees that this will be provided for review and approval by the Wildlife Agencies.

70. Maintenance of the corridor will be a condition of project approval regardless of property ownership or leasehold conditions.

71. As noted in Response to Comment 65, the applicant is not proposing to obtain mitigation credits for the restoration of the 100-foot wide onsite corridor. Thus, a formal restoration and management plan is not required. As noted in the discussion of the Reduced Project / Subarea Plan Alternative in the DEIR, the project includes planting of appropriate native species. As noted in Response to Comments 66 and 116, restoration of the SDG&E corridor is not part of this project, but could be coordinated with the City's draft SAP and SDG&E's own NCCP.

72. It is acknowledged that the draft Subarea Plan recommends that impacts to habitats within the Wildlife Corridor Planning Zone be mitigated within the zone. Feasible mitigation opportunities within the WCPZ are not available for this project, and the applicant proposes to find another acceptable mitigation site. As noted in Response to Comment 65, the applicant does propose to plant the 100-foot corridor with appropriate native species, but not receive any mitigation credit. It is further noted that the upland habitat areas on the subject property are not high quality and have been mowed as part of the drive-in maintenance activities for years. The relatively low quality and minimal functions and services provided by the existing site conditions is a consideration for accepting mitigation outside the Wildlife Corridor Planning Zone.

73. Comment noted. See Response to Comments 61 and 72.

The Wildlife Agencies appreciate the opportunity to assist in resolving this issue. Please contact Marci Koski (Service) at (760) 431-9440 or Christine Beck (Department) at (858) 637-5511 if you have any questions or comments concerning this letter.

Sincerely,

Therese O'Rourke
Assistant Field Supervisor
U.S. Fish and Wildlife Service

Michael J. Mulligan
Deputy Regional Manager
California Department of Fish and Game

cc: Tom Huffman, Helix Environmental Planning, Inc.
Mark McGuire

Enclosure

ENCLOSURE

Summary of the August 31, 2007 meeting with Applicant and Wildlife Agencies

At the meeting, all parties discussed the *Science Review Panel Consensus Report for the Pavilion Development Site* (prepared by Drs. Patrick Mock and Wayne Spencer, July 2007) regarding the potential effects of the proposed project on the functionality of the coastal California gnatcatcher (*Polioptila californica californica*; gnatcatcher) "stepping stone" corridor proposed in the City's draft Multiple Habitat Conservation Plan's (MHCP) Subarea Plan (SAP), and alternative development configurations and conservation actions that would further the intended goals of the Wildlife Corridor Planning Zone (WCPZ) development standards given in the SAP. To summarize, the panel determined that the corridor could be moved from the center of the property, as originally planned in the draft SAP, to its eastern border; and that it should be a minimum width of 200 feet (100 feet of the SDG&E corridor plus 100 feet of the project site) and restored with coastal sage scrub (CSS). In addition, the panel recommended that the off-site western corridor (steep undeveloped slopes running west along Mesa Drive from the existing SDG&E substation on El Camino Real to the San Luis Rey River) be restored with CSS. According to the panel's report, "these two routes provide the redundancy needed for such a critical regional habitat linkage, and presumably would allow for relatively unconstrained development on the remainder of the Pavilions site." 74.

In response to our meeting and the panel's report, the property owner proposes to allow the project applicant to place a perpetual conservation easement over a 100-foot wide, 4.0-acre strip along the eastern border of the property as recommended by the panel. The 4.0-acre corridor currently contains 0.7 acre coyote brush scrub, 1.7 acres non-native grassland (NNG), 0.9 acre disturbed habitat, and 0.7 acre developed land (for an existing sewer line). The applicant also proposes to restore 3.3 acres of the corridor to coastal sage scrub (CSS) and maintain the corridor for the life of the 90-year lease of the property. These commitments, however, are conditional on receiving credit against the project's NNG mitigation requirements for restoring 3.3 acres of the corridor to CSS. 75.

74. Comment noted. The comment regarding amendment of the Draft Subarea Plan is not part of this project, but rather is a subarea plan issue beyond the scope of the Pavilion Project.

75. This enclosure is a summary of a meeting held with the Wildlife Agencies; while it has information value, it is not a comment on the DEIR, and no further response is necessary.

ENCLOSURE 3

U.S. Fish and Wildlife Service's Standard Recommendations

The following conditions should be incorporated in the final EIR:

1. The applicant shall submit final wetland creation/restoration/enhancement plans to the Corps, Service and Department (Agencies) for approval 30 days prior to initiating project impacts. These plans shall be based on the EIR and the comments provided by the Agencies. In addition to the measures proposed in the EIR, the final plans shall include the following information and conditions: 76.

   a. All final specifications and topographic-based grading, planting and irrigation plans (0.5-foot contours and typical cross-sections) for the creation/restoration/enhancement sites. All wetland mitigation areas shall be graded to the same elevation as adjacent existing Corps jurisdictional wetlands areas, and/or to within 1-ft of the groundwater table, and shall be left in a rough grade state with micro topographic relief (including channels for wetlands) that mimics natural topography, as directed by the Agencies. Topsoil and plant materials salvaged from the impacted areas (including live herbaceous, shrub and tree species) shall be transplanted to, and/or used as a seed/cutting source for, the riparian/wetland creation and enhancement areas to the maximum extent practicable as directed by the Agencies. Planting and irrigation shall not be installed until the Agencies have approved of the mitigation site grading. All plantings shall be installed in a way that mimics natural plant distribution, and not in rows;

   b. Planting palettes (plant species, size and number/acre) and seed mix (plant species and pounds/acre). The multitude of plant palettes proposed in the draft plans shall include native species specifically associated with the habitat type(s). Unless otherwise approved by the Agencies, only locally native species (no cultivars) obtained from as close to the project area as possible shall be used. The source and proof of local nativeness of all plant material and seed shall be provided; 77.

   c. Container plant survival shall be 80% of the initial plantings for the first 5 years. At the first and second anniversary of plant installation, all dead plants shall be replaced unless their function has been replaced by natural recruitment;

   d. A final implementation schedule that indicates when all riparian/wetland impacts, as well as riparian/wetland creation/restoration/enhancement grading, planting and irrigation shall begin and end. Necessary site preparation and planting shall be completed during the concurrent or next planting season (i.e., late fall to early spring) after receiving the Agencies' approval of grading. Any temporal loss of wetland/riparian habitat caused by delays in creation/restoration/enhancement shall be offset through wetland/riparian creation/restoration/enhancement at a 0.5:1 ratio for every 6 months of delay (i.e., 1:1 for 12 months delay, 1.5:1 for 18 months delay, etc.). In the event that the project applicant is wholly or partly prevented from performing obligations under the final plans (causing temporal

76. See Response to Comment 65.

77. The Wildlife Agencies' Enclosure 3 contains the USFWS's "Standard Recommendations" for mitigation relating to biological impacts. As such, some recommendations are not applicable to the specific circumstances of the Pavilion Project (for example, there is no suitable habitat for the coastal California gnatcatcher on-site, so there is no need to conduct gnatcatcher surveys prior to commencement of clearing and grubbing activities). In addition, the Agencies have not attempted to review and comment on the mitigation measures already proposed, so there is redundancy between many of the USFWS's "standard" measures and the measures already proposed in the DEIR. Consequently, wholesale inclusion of all of the standard measures is not appropriate, as the previously proposed measures adequately address the Pavilion project's site-specific impacts. Even though the Agencies' Enclosure 3 does not for the most part specifically address the Draft EIR, responses to comments in the enclosure are nonetheless provided.

losses due to delays) because of unforeseeable circumstances or causes beyond the reasonable control, and without the fault or negligence of the project applicant, including but not limited to natural disasters (e.g., earthquakes etc.), labor disputes, sudden actions of the elements (e.g., further landslide activity), or actions by Federal or State agencies, or other governments, the project applicant shall be excused by such unforeseeable cause(s);

e. Five years of success criteria for wetland/riparian creation/restoration/ enhancement areas including: separate percent cover criteria for herbaceous understory, shrub midstory, and tree overstory, and a total percent absolute cover for all three layers at the end of five years; evidence of natural recruitment of multiple species for all habitat types; 0 percent coverage for Cal-IPC's "Invasive Plant Inventory" species, and no more than 10 percent coverage for other exotic/weed species;

f. A minimum five years of maintenance and monitoring of riparian/wetland creation/restoration/enhancement areas, unless success criteria are met earlier and all artificial water supply has been off for at least two years. Monitoring shall include protocol surveys for least Bell's vireo (*Vireo belli pusillus*).

g. A qualitative and quantitative vegetation monitoring plan with a map of proposed sampling locations. Photo points shall be used for qualitative monitoring and stratified-random sampling shall be used for all quantitative monitoring; 77.

h. Contingency measures in the event of creation/restoration/enhancement failure;

i. Annual mitigation maintenance and monitoring reports shall be submitted to the Agencies no later than December 1 of each year;

j. If maintenance of a wetland the creation/restoration/enhancement area potentially occupied by vireos and/or flycatchers is necessary during between March 15 and September 15, a biologist permitted by the Service will survey for vireos and/or flycatchers within the creation/restoration/enhancement area, access paths to it, and other areas susceptible to disturbances by creation/restoration/enhancement site maintenance. Surveys will consist of three visits separated by two weeks starting April 1 of each maintenance/monitoring year. Restoration work will be allowed to continue on the site during the survey period. However, if vireos and/or flycatchers are found during any of the visits, the applicant will notify and coordinate with the Agencies to identify measures to avoid and/or minimize effects to the vireo and/or flycatcher (e.g., nests and an appropriate buffer will be flagged by the biologist and avoided by the maintenance work); and

k. A wetland delineation shall be done to confirm that Corps jurisdictional wetlands have been successfully created/restored prior to final approval of creation/restoration sites.

2. The applicant shall submit final CSS upland habitat creation/restoration/enhancement plans to the Agencies for review and approval at least 30 days prior to initiating project impacts. These plans shall be based on the EIR and the comments provided by the Agencies. In addition to the measures proposed in the EIR, the final plans shall include the following information and conditions:

   a. All final specifications and topographic-based grading, planting and irrigation plans (with 10-foot contours). All CSS habitat creation/restoration/enhancement sites shall be prepared for planting by decompacting the top soil in a way that mimics natural upland habitat top soil to the maximum extent practicable while maintaining slope stability. Topsoil and plant materials salvaged from the upland habitat areas to be impacted shall be transplanted to, and/or used as a seed/cutting source for, the upland habitat restoration/creation areas to the maximum extent practicable as approved by the Agencies. Planting and irrigation shall not be installed until the Agencies have approved of upland habitat restoration/creation site grading. All planting shall be installed in a way that mimics natural plant distribution, and not in rows;

   b. Planting palettes (plant species, size and number/acre) and seed mix (plant species and pounds/acre). The upland plant palette proposed in the draft plans shall include native species specifically associated with the habitat type(s). Unless otherwise approved by the Service, only locally native species (no cultivars) obtained from as close to the project area as possible shall be used. The source and proof of local nativeness of all plant material and seed shall be provided;

78.

   c. Container plant survival shall be 80% of the initial plantings for the first 5 years. At the first and second anniversary of plant installation, all dead plants shall be replaced unless their function has been replaced by natural recruitment;

   d. A final implementation schedule that indicates when all upland habitat impacts, as well as creation/restoration/enhancement grading, planting and irrigation shall begin and end. Upland habitat creation/restoration/enhancement grading, planting and irrigation shall be completed during the concurrent or next planting season (i.e., late fall to early spring) after finishing grading within the creation/restoration/enhancement area. Any temporal loss of upland habitat caused by delays in creation/restoration/enhancement shall be mitigated through upland habitat preservation/creation/restoration/enhancement at a 0.5:1 ratio for every 6 months of delay (i.e., 1:1 for 12 months delay, 1.5:1 for 18 months delay, etc.). In the event that the project applicant is wholly or partly prevented from performing obligations under the final plans (causing temporal losses due to delays) because of unforeseeable circumstances or causes beyond the reasonable control, and without the fault or negligence of the project applicant, the project applicant shall be excused by such unforeseeable cause(s);

79.

   e. Five years of success criteria for upland creation/restoration/enhancement areas including: a total of 40-65 percent absolute cover; evidence of natural recruitment

78. This comment includes a long list of recommended wetland mitigation plan components. The wetland mitigation plan (see Response to Comment No. 61) has been prepared for this project. This plan will be submitted to the wetland permitting agencies for their review and approval as part of the wetland permitting process. The plan includes measures typically required as part of the wetland permitting process, and will be modified as necessary during the permit process in response to agency concerns.

79. As noted in Response to Comment 65, the applicant is not trying to obtain mitigation credit for the on-site corridor restoration. The applicant has agreed to restore the 100-foot corridor, but there are no regulations that require preparation of a habitat restoration plan. It is further noted that the wildlife agencies do not have regulatory authority over the upland component of this project and that their review and approval of plans for the corridor are not required.

of multiple species; 0 percent coverage for Cal-IPC List A and B species, and no more than 10 percent coverage for other exotic/weed species;

f. A qualitative and quantitative vegetation monitoring plan with a map of proposed sampling locations. Photo points shall be used for qualitative monitoring and stratified-random sampling shall be used for all quantitative;

g. Contingency measures in the event of creation/restoration/enhancement failure;

h. Annual mitigation maintenance and monitoring reports shall be submitted to the Agencies after the maintenance and monitoring period and no later than December 1 of each year; and

i. If maintenance of a coastal sage scrub creation/restoration/enhancement area is necessary between February 15 and August 31, a biologist permitted by the Service will survey for coastal California gnatcatchers (*Polioptila californica californica*; gnatcatcher) within the creation/restoration/enhancement area, access paths to it, and other areas susceptible to disturbances by site maintenance. Surveys will consist of three visits separated by two weeks starting March 1 of each maintenance/monitoring year. Work will be allowed to continue on the site during the survey period. However, if gnatcatchers are found during any of the visits, the applicant will notify and coordinate with the Agencies to identify measures to avoid and/or minimize effects to the gnatcatcher (e.g., nests and an appropriate buffer will be flagged by the biologist and avoided by the maintenance work).

79.

3. The project applicant shall temporarily fence (with silt barriers) the limits of project impacts (including construction staging areas and access routes) to prevent additional habitat impacts and prevent the spread of silt from the construction zone into adjacent habitats to be avoided. Fencing shall be installed in a manner that does not impact habitats to be avoided. The applicant shall submit to the Agencies for approval, at least 30 days prior to initiating project impacts, the final plans for initial clearing and grubbing of habitat and project construction. These final plans shall include photographs that show the fenced limits of impact and all areas (including riparian/wetland or coastal sage scrub) to be impacted or avoided. If work occurs beyond the fenced or demarcated limits of impact, all work shall cease until the problem has been remedied to the satisfaction of the Agencies. Any riparian/wetland or upland habitat impacts that occur beyond the approved fenced shall be mitigated at a minimum 5:1 ratio. Temporary construction fencing shall be removed upon project completion.

80.

4. Impacts from fugitive dust will be avoided and minimized through watering and other appropriate measures.

81.

5. The clearing and grubbing of, and construction adjacent to, sensitive habitats shall occur outside of the bird breeding season (January 31 to September 15, or sooner if a qualified

82.

80. The mitigation measure entitled "Construction Limits" on Page 73 of the DEIR and the new mitigation measure described in Response to Comment 84 adequately addresses potential impacts to off-site adjacent habitat areas during construction. Please note that the commenter did not appear to review and comment on the DEIR mitigation measures, but rather provided a lengthy list of standard measures that in some cases are not applicable to the proposed project or are redundant with measures already in the DEIR.

81. Watering during the construction phase to control dust is a standard construction requirement that will be implemented as part of the project.

82. The mitigation measure entitled "Seasonal Restrictions on Grading" on Pages 72 and 73 of the DEIR adequately address potential impacts to adjacent habitat areas during construction. See also the second sentence of Response to Comment 80, and Response to Comment 84.

biologist demonstrates to the satisfaction of the Agencies that all nesting is complete).

6. If project construction (other than clearing and grubbing of sensitive habitats) is necessary adjacent to preserved on and offsite habitat during the bird breeding season (January 31 to September , or sooner if a qualified biologist demonstrates to the satisfaction of the Agencies that all nesting is complete), a qualified biologist shall conduct pre-construction surveys in the adjacent habitat to determine the location of any active bird nests in the area, including raptors and ground nesting birds. The survey should begin not more than three days prior to the beginning of construction activities. The Agencies will be notified if any nesting birds are found. During construction, no activity shall occur within 300 feet of active nesting territories (500 feet for raptors or listed species), unless measures are implemented to minimize the noise and disturbance to those adjacent birds. Exceptions to this measure includes cases where surveys confirm that adjacent habitat is not occupied or where noise studies confirm that construction noise levels are below 60 dBA hourly L_{eq} along the edge of adjacent habitat. If construction activities are not completed prior to the breeding season and noise levels exceed this threshold, noise barriers shall be erected to reduce noise impacts to occupied habitat to below 60 dBA hourly L_{eq} and/or the culpable activities shall be suspended. 83.

7. A monitoring biologist approved by the Agencies shall be onsite during: a) initial clearing and grubbing of habitat; and b) project construction within 500 feet of preserved habitat to ensure compliance with all conservation measures. The biologist must be knowledgeable of gnatcatcher and vireo biology and ecology. The applicant shall submit the biologist's name, address, telephone number, and work schedule on the project to the Agencies at least 10 days prior to initiating project impacts. The biologist shall perform the following duties: 84.

   a. Perform a minimum of three focused surveys, on separate days, to determine the presence of gnatcatchers in the project impact footprint outside the gnatcatcher breeding season. Surveys will begin a maximum of seven days prior to performing vegetation clearing/grubbing and one survey will be conducted the day immediately prior to the initiation of remaining work. If any gnatcatchers are found within the project impact footprint, the biologist will direct construction personnel to begin vegetation clearing/grubbing in an area away from the gnatcatchers. In addition, the biologist will walk ahead of clearing/grubbing equipment to flush birds towards areas of habitat to be avoided. It will be the responsibility of the biologist to ensure that gnatcatchers will not be injured or killed by vegetation clearing/grubbing. The biologist will also record the number and location of gnatcatchers disturbed by vegetation clearing/grubbing. The applicant will notify the Agencies at least seven days prior to vegetation clearing/grubbing to allow the Agencies to coordinate with the biologist on bird flushing activities;

   b. Perform a minimum of three focused surveys, on separate days, to determine the presence of gnatcatcher and vireo, nest building activities, egg incubation activities, or brood rearing activities in or within 500 feet of the project impact

83. Please see Response to Comments 82 and 84.

84. In order to clarify that a monitoring biologist shall be retained to ensure compliance with biology mitigation measures, the following mitigation measure has been added as the first bullet under the Indirect Impacts in the MMRP (see Chapter 4 of the DEIR):

A monitoring biologist (approved by the City) shall: 1) attend a preconstruction meeting, 2) be present during initial clearing and grubbing of habitat, and 3) be present during project construction within 500 feet of preserve habitat to ensure compliance with all conservation measures. The monitoring biologist shall ensure that: the contractor and construction personnel are educated about the sensitivity of adjacent habitats, construction fencing is installed, seasonal restrictions on grading are followed, trash is removed from sensitive habitat areas or adjacent areas, vehicle fueling occurs outside sensitive areas, pets of project personnel are not brought to the project site, construction night lighting is minimized to avoid impacts to sensitive habitats, and violations are reported and mitigated appropriately. The biologist shall submit a letter to the City that documents compliance with mitigation measures at the conclusion of construction.

With regard to gnatcatchers, surveys for this species are not required since no habitat for this species occurs on site. With regard to least Bell's vireos, see Response to Comment 82.

limits of any vegetation clearing/grubbing or project construction proposed within the vireo and gnatcatcher breeding season. The surveys will begin a maximum of seven days prior to vegetation clearing/grubbing or project construction and one survey will be conducted the day immediately prior to the initiation of work. Additional surveys will be done once a week during project construction in the breeding season. These additional surveys may be suspended as approved by the Agencies. The applicant will notify the Agencies at least seven days prior to the initiation of surveys, and within 24 hours of locating any gnatcatchers.

c. If a vireo or gnatcatcher nest is found in or within 500 feet of initial vegetation clearing/grubbing or project construction, the biologist will postpone work within 500 feet of the nest and contact the Agencies to discuss: 1) the best approach to avoid/minimize impacts to nesting birds (e.g., sound walls); and 2) a nest monitoring program acceptable to the Agencies. Subsequent to these discussions, work may be initiated subject to implementation of the agreed upon avoidance/minimization approach and nest monitoring program. Nest success or failure will be established by regular and frequent trips to the site, as determined by the biologist and through a schedule approved by the Agencies. The biologist will determine whether bird activity is being disrupted. If the biologist determines that bird activity is being disrupted, the applicant will stop work and coordinate with the Agencies to review the avoidance/minimization approach. Coordination between the applicant and Agencies to review the avoidance/minimization approach will occur within 48 hours. Upon agreement as to the necessary revisions to the avoidance/minimization approach, work may resume subject to the revisions and continued nest monitoring. Nest monitoring will continue until fledglings have dispersed or the nest has been determined to be a failure, as approved by the Agencies; 84.

d. Be on site during all vegetation clearing/grubbing and project construction in habitat to be impacted or within 500 feet of habitat to be avoided;

e. Oversee installation of and inspect the fencing and erosion control measures within or up-slope of habitat restoration and/or preservation areas a minimum of once per week and daily during all rain events to ensure that any breaks in the fence or erosion control measures are repaired immediately;

f. Periodically monitor the work area to ensure that work activities do not generate excessive amounts of dust;

g. Train all contractors and construction personnel on the biological resources associated with this project and ensure that training is implemented by construction personnel. At a minimum, training will include: 1) the purpose for resource protection; 2) a description of the vireo and gnatcatcher and their habitats; 3) the conservation measures given in the EIR that should be implemented during project construction to conserve the vireo and gnatcatcher, including strictly limiting activities, vehicles, equipment, and construction

materials to the fenced project footprint to avoid sensitive resource areas in the field (i.e., avoided areas delineated on maps or on the project site by fencing); 4) environmentally responsible construction practices as outlined in measure 8; 5) the protocol to resolve conflicts that may arise at any time during the construction process; 6) the general provisions of the Act, the need to adhere to the provisions of the Act, the penalties associated with violating the Act;

h. Halt work, if necessary, and confer with the Agencies to ensure the proper implementation of species and habitat protection measures. The biologist will report any violation to the Agencies within 24 hours of its occurrence;

i. Submit weekly letter reports (including photographs of impact areas) to the Agencies during clearing of habitat and/or project construction within 500 feet of avoided habitat. The weekly reports will document that authorized impacts were not exceeded, work did not occur within the 500-foot setback except as approved by the Agencies, and general compliance with all conditions. The reports will also outline the duration of gnatcatcher monitoring, the location of construction activities, the type of construction which occurred, and equipment used. These reports will specify numbers, locations, and sex of gnatcatchers (if present), observed gnatcatcher behavior (especially in relation to construction activities), and remedial measures employed to avoid, minimize, and mitigate impacts to gnatcatchers. Raw field notes should be available upon request by the Agencies; and

84.

j. Submit a final report to the Agencies within 60 days of project completion that includes: as-built construction drawings with an overlay of habitat that was impacted and avoided, photographs of habitat areas that were to be avoided, and other relevant summary information documenting that authorized impacts were not exceeded and that general compliance with all conditions of this EIR was achieved.

8. The applicant shall ensure that the following conditions are implemented during project construction:

a. Employees shall strictly limit their activities, vehicles, equipment, and construction materials to the fenced project footprint;

b. To avoid attracting predators of the vireo and gnatcatcher, the project site shall be kept as clean of debris as possible. All food related trash items shall be enclosed in sealed containers and regularly removed from the site;

85.

c. Pets of project personnel shall not be allowed on the project site;

d. Disposal or temporary placement of excess fill, brush or other debris shall not be allowed in waters of the United States or their banks;

85. See Response to Comment 84

e. All equipment maintenance, staging, and dispensing of fuel, oil, coolant, or any other such activities shall occur in designated areas outside of waters of the United States within the fenced project impact limits. These designated areas shall be located in previously compacted and disturbed areas to the maximum extent practicable in such a manner as to prevent any runoff from entering waters of the United States, and shall be shown on the construction plans. Fueling of equipment shall take place within existing paved areas greater than 100 feet from waters of the United States. Contractor equipment shall be checked for leaks prior to operation and repaired as necessary. "No-fueling zones" shall be designated on construction plans.

85.

9. The applicant shall post a performance bond or letter of credit for grading, planting, irrigation, and 5 years of maintenance and monitoring of for wetland/riparian and upland mitigation (including a 20% contingency to be added to the total costs). This bond or letter of credit is to guarantee the successful implementation of the habitat mitigation construction, maintenance and monitoring. The applicant shall submit a draft bond or letter of credit with an itemized cost list to the Agencies for approval at least 30 days prior to initiating project impacts. The applicant shall submit the final bond or letter of credit for the amount approved by the Agencies within 60 days of receiving Agency approval of the draft bond.

86.

10. The project applicant shall execute and record a perpetual biological conservation easement over the approximately 4 acres to be avoided/preserved on site, and the off-site wetland/riparian mitigation area created by the project. The easement shall be in favor of an agent approved by the Agencies. The Agencies shall be named as third party beneficiaries. The easement shall be approved by the Agencies prior to its execution and should follow an Agency-approved template. There should be no active trails in the easement areas. The project applicant shall submit a draft easement to the Agencies for review and approval at least 30 days prior to initiating project impacts. The project applicant shall submit the final easement and evidence of its recordation to the Agencies within 60 days of receiving approval of the draft easement.

87.

11. The applicant shall prepare and implement a perpetual management, maintenance and monitoring plan for all on- or off-site biological conservation easement areas. The applicant shall also establish a non-wasting endowment for an amount approved by the Agencies based on a Property Analysis Record (PAR) (Center for Natural Lands Management ©1998) or similar cost estimation method to secure the ongoing funding for the perpetual management, maintenance and monitoring of the biological conservation easement area by an agency, non-profit organization, or other entity approved by the Agencies. The applicant shall submit a draft plan including: 1) a description of perpetual management, maintenance and monitoring actions and the PAR or other cost estimation results for the non-wasting endowment; 2) proposed land manager's name, qualifications, business address, and contact information, to the Agencies for approval at least ____ days prior to initiating project impacts. The applicant shall submit the final plan to the Agencies and a contract with the approved land manager, as well as transfer the funds for the non-wasting endowment to a non-profit conservation entity, within 60 days of

88.

86. Requirements for bonding of the wetland mitigation site shall be determined by the appropriate resource agencies as part of the wetland permitting process. No bond is required for uplands since there is no onsite mitigation proposed for this project. With regard to upland habitats, the applicant has agreed to plant the 100-foot corridor with appropriate native species, and will be required to ensure that the project landscaping meets typical City of Oceanside erosion control standards, but this would not require posting a bond with the wildlife agencies.

87. Please see Response to Comment 82.

88. Please see Response to Comment 83.

receiving approval of the draft plan.

12. The applicant shall install permanent protective fencing along any interface with developed areas and/or use other measures approved by the Agencies to deter human and pet entrance into on- or off-site habitat. Fencing should have no gates and be designed to prevent intrusion by pets, especially cats. Signage for the biological conservation easement area shall be posted and maintained at conspicuous locations. Plans for fencing and/or other preventative measures shall be submitted to the Agencies for approval at least 30 days prior to initiating project impacts. Fencing shall be installed prior to completion of project construction. 89.

13. The final EIR should require use of native plants in the project-related landscaping. Exotic plant species not to be used include any species listed in the "Invasive Plant Inventory," published by the California Invasive Plant Council in February 2006. This list includes such species as: pepper trees, pampas grass, fountain grass, ice plant, myoporum, black locust, capeweed, tree of heaven, periwinkle, sweet alyssum, English ivy, French broom, Scotch broom, and Spanish broom. A copy of the complete list can be obtained by contacting the California Invasive Plant Council at 1442-A Walnut Street, #462, Berkeley, California 94709, or by accessing their web site at http://www.cal-ipc.org. 90.

14. The applicant shall ensure that development lighting adjacent to all on- or off-site habitat shall be directed away from and/or shielded so as not to illuminate native habitats. The applicant shall submit a lighting plan to the Agencies at least 30 days prior to initiating project impacts. 91.

15. If night work is necessary, night lighting shall be of the lowest illumination necessary for human safety, selectively placed, shielded and directed away from natural habitats. 92.

16. Any planting stock to be brought onto the project site for landscape or habitat creation/restoration/enhancement shall be first inspected by a qualified pest inspector to ensure it is free of pest species that could invade natural areas, including but not limited to, Argentine ants (*Iridomyrmex humil*), fire ants (*Solenopsis invicta*) and other insect pests. Any planting stock found to be infested with such pests shall not be allowed on the project site or within 300 feet of natural habitats unless documentation is provided to the Agencies that these pests already occur in natural areas around the project site. The stock shall be quarantined, treated, or disposed of according to best management principles by qualified experts in a manner that precludes invasions into natural habitats. The applicant shall ensure that all temporary irrigation will be for the shortest duration possible, and that no permanent irrigation will be used, for landscape or habitat creation/restoration/enhancement. 93.

89. This comment presents a typical mitigation measure in a situation where development that could introduce human or pet activity is proposed adjacent to sensitive habitat (such as riparian habitat with least Bell's vireos). The proposed project involves development of a shopping center next to the 100-foot corridor that will be planted with native species that would allow an unimpeded flyway corridor for dispersing gnatcatchers. The back of the shopping center buildings will be located along the 100-foot corridor, and human pedestrians and pets are not anticipated to be an issue. The project plans include a 6-foot block wall along the eastern parcel boundary, and no additional fencing is considered necessary.

90. The mitigation measure entitled "Invasive Species" on Page 72 of the DEIR adequately addresses potential impacts from introduction of exotic species. Use of native species is proposed within the on-site 100-foot corridor.

91. The mitigation measure entitled "Lighting" on Page 73 of the DEIR adequately addresses potential lighting impacts to the San Luis Rey River.

92. See Response to Comment 84.

93. This measure is not considered necessary because the proposed project and Subarea Plan / Reduced Project Alternative are not located immediately adjacent to the San Luis Rey River. The site is separated by the large levee and biking/hiking road/trail adjacent to the river. Both alternatives are located more than 100 feet from wetland habitat on the east side of the berm, north of the project. This distance is considered an adequate buffer from the project and therefore this mitigation measure is not required.

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July 9, 2008

VIA HAND DELIVERY

Jerry Hittleman, City Planner
Development Services Department
City of Oceanside
Civic Center
300 North Coast Highway
Oceanside, California 92054

RECEIVED
JUL - 9 2008
Planning Department

Re: Comments on the Draft Environmental Impact Report for the Pavilion at Oceanside (SCH No. 2006111033)

Dear Mr. Hittleman:

This law firm represents Plaza Camino Real, a California limited partnership ("Westfield"), the owner of Westfield Plaza Camino Real shopping center in Carlsbad, California. On behalf of Westfield, this letter provides our comments on the Draft Environmental Impact Report ("DEIR") prepared for the proposed Pavilion at Oceanside project (the "Pavilion Project") proposed by Thomas Enterprises, Inc. (the "Developer") for an approximately 92-acre site of a former drive-in movie theater (the "Property") generally located at the northeastern corner of State Route 76 ("SR76") and Foussat Road in the City of Oceanside (the "City"), immediately adjacent to the general aviation Oceanside Municipal Airport.

We have substantial concerns about the legal sufficiency of the DEIR prepared by the City for the Pavilion Project. The sufficiency of that document is critical since an EIR has been deemed the "heart" of CEQA and the primary tool for fulfilling CEQA's primary mandate that decision makers and the public are fully informed about each of the potential environmental impacts a project might cause. (CEQA Guidelines § 15003, subds. (a), (c).) In fact, the CEQA Guidelines require recirculation when a draft EIR is "so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." (CEQA Guidelines § 15088.5, subd. (a)(4).) Here, that test is met in several respects.

94.

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94. We understand you represent Westfield/Plaza Camino Real in the Carlsbad, CA regional shopping mall with well over 1,000,000 s.f. of retail located approximately 3.5 miles to the south of the Pavilion project site. The City prepared and circulated the DEIR in conformance with CEQA statues and guidelines. Your client asked for (in a letter prepared by attorney Brian Vess, included at the beginning of this chapter of the FEIR) and received additional time to comment.

First, the DEIR suffers from legal and technical inadequacies, including complete omissions of critical analyses in some areas and unsupported conclusions in others. As a result, it substantially understates the environmental impacts the Pavilion Project would cause, a critical error given that the Property is situated at a unique geographical location – between a river, an airport, a congested state highway and two residential communities. Because of its many flaws, the DEIR understates impacts to:

- Traffic (the Pavilion Project would add more than 32,000 daily traffic trips on roadways that were not designed to support that traffic, many of which are already operating beyond their capacity); 95.
- Biological Resources (the Pavilion Project would impede the preservation of a wildlife corridor designated in the City's draft Habitat Conservation Plan); 96.
- Airport Land Use Consistency (the Pavilion Project would place tall structures on property immediately adjacent to the Oceanside Municipal Airport; 97.
- Air Quality (particularly during project construction, when 706 trucks every day for three months would be used to haul a total of 459,000 cubic yards to the Property); 98.
- Noise (the DEIR uses incorrect assumptions about construction equipment noise and the existing ambient setting); and 99.
- Hydrology (the Property is just 200 feet from a river susceptible to flooding, and the latest flood control system serving the Property has not yet been certified by regulatory agencies). 100.

Compounding these errors is the fact that the description of the project has never remained constant, as the DEIR itself contains several inconsistent site plans and varying descriptions of the project. It also completely omits any discussion of a probable future project (with potentially 147,000 square feet of development) almost immediately adjacent to the Property – one whose impacts would almost certainly combine with those of the Pavilion Project to generate even greater cumulative effects. 101.

95. The potential direct and cumulative traffic and transportation impacts, and mitigations, are extensively addressed in the DEIR. See DEIR, Section 4.K., pages 153-156, inclusive, and the traffic impact analysis (Appendix I of the DEIR), as well as Response to Comment No's 12-19 and 30-54. The technical report, further reviewed by the City's engineering staff, analyzed potential project impacts to 62 separate roadway segments and 35 intersections in both the near term and horizon year conditions. Further, separate analysis was conducted for the site development activities for haul routes and construction traffic. As your letter fails to identify any deficiencies, we are unable to provide further comments and refer you to the exhaustive analysis in the DEIR.

96. The DEIR fully analyzes the potential impacts on Biological Resources and consistency with the City's Draft Subarea Plan, which continues to be under evaluation by the City and associated environmental agencies (U.S. Fish and Wildlife Service and California Department of Fish and Game, collectively "Wildlife Agencies") as a part of the larger North San Diego County Multiple Habitat Conservation Plan effort. The biological consultant conducted an exhaustive biological resources survey; the study and recommendations are included in Appendix C of the DEIR. Further, during the DEIR preparation, the City, Applicant and the Wildlife Agencies went much further, engaging a Science Review Panel to evaluate the need for and appropriate design of a biological movement corridor to link the identified biological preserve areas as intended by the Draft Subarea Plan. As a result of this special effort, the Biologically Preferred Alternative was identified, and incorporated into the DEIR providing the on-site portion of the 200 foot-wide wildlife movement corridor along the eastern edge of the project. The applicant has accepted this alternative, and it is being recommended by staff as the preferred project.

97. Airport compatibility, safety and noise is fully analyzed in the DEIR at pages 98-104 and further in Appendix F. For more detail regarding this issue, see Response to Comment No's 8-13.

98. Potential air quality impacts of the project, both during construction and for the ongoing project operations, are fully examined and analyzed in the DEIR at pages 59-64 and in the additional technical reports in Appendix B, including analysis of truck hauling activities.

99. The DEIR discussion of Noise impacts is set forth at DEIR pages 133-142 and Appendix H. The noise analysis is comprehensive, covering both the construction and operational aspects of the project. You provide no detail nor support for your statement that the DEIR "uses incorrect assumptions about construction equipment and the existing ambient setting".

100. Hydrological conditions, potential flooding, water quality and associated matters are all fully examined in the DEIR at pages 105-128 and the associated technical reports in Appendix G. Please see the language on page 110 of the DEIR regarding the potential need for a CLOMR/LOMR, etc.

101. The Project description has only been modified and refined during the DEIR process to incorporate and identify mitigation measures or other Project improvements, fully consistent with the purpose and intent of CEQA. The Applicant's Project is as proposed in the DEIR, but during the DEIR process, as discussed above in Comment C, a biologically preferred alternative was identified through the Science Review Panel process with the Wildlife Agencies and applicant has indicated a willingness to accept that alternative. At the time the DEIR was prepared, the City examined all pending and planned project lists for purpose of cumulative projects in the cumulative build out analysis scenario. Once again, your letter contains no specifics, but may be alluding to some preliminary discussion about Costco being interested in locating on City owned property northerly of the airport, which has been reported in the local press. Any such project would require a General Plan Amendment and Zone Change in addition to specific and detailed Development Plans, and no applications are on file or in process for any such entitlement actions. The current General Plan designation for the city property is Light Industrial with corresponding zoning of IL (Limited Industrial and PS (Public/Semi-Public). Since no application has been received and no such project is pending or reasonably probable, any such future project is too remote and speculative.

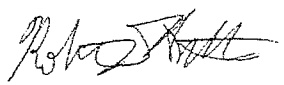
Given these procedural and analytical flaws, the DEIR's failure to provide a realistic depiction of potential impacts means it cannot possibly recommend appropriate mitigation measures or analyze potential alternatives that would alleviate those impacts. In fact, despite the fact that CEQA requires EIRs to analyze a "reasonable range" of alternatives to the proposed project, only two development alternatives are even mentioned in the DEIR, and neither proposes any real deviation from the core elements of the Pavilion Project. Each of these fundamental flaws undercuts the important role of the DEIR under CEQA, especially in this instance where the project under review would be the largest development proposal ever considered by the City, and would change its character forever.[1]

102.

While we recognize the City's desire to redevelop the Property with a more modern use, too many questions remain unanswered about the Pavilion Project and its impacts to proceed with the existing DEIR. As currently drafted, the DEIR is a cursory document that, despite the immense size of the Pavilion Project and its sensitive surroundings, inaccurately understates the project's environmental impacts and fails in its mission to provide the public with detailed analyses and recommended mitigation measures. For these reasons, it is imperative that the City go back to square one and revise and recirculate the DEIR for the public's review with a consistent description of the project, technically accurate analyses, conclusions supported by substantial evidence, all feasible mitigation measures and a reasonable range of true project alternatives.

103.

Very truly yours,



Robert D. Pontelle
WESTON, BENSHOOF,
ROCHEFORT, RUBALCAVA & MacCUISH LLP

RDP/cfg

[1] Despite the fact that these comments are being submitted at this time, Westfield reserves the right to submit additional comments and/or objections prior to the time the City takes final action on the Pavilion Project and any Final EIR prepared for it.

104.

102. The DEIR examines a reasonable good faith range of alternatives fully in compliance with CEQA. CEQA does not require, as inferred in your letter, for the City to require "any real deviation from the core elements" of a private project. Once again your letter contains no specificity to formulate a more detailed response.

103. See Response to Comment 94.

104. See Response to Comment 94. An extension to DEIR public review was granted by the City of Oceanside.

CALIFORNIA INDIAN LEGAL SERVICES

Escondido Office

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EUREKA BISHOP

ESCONDIDO SACRAMENTO

July 10, 2008

VIA FAX (760) 754-2958 & ELECTRONIC MAIL

Jerry Hittleman
City of Oceanside Planning Dept.
300 North Coast Highway
Oceanside, CA 92054

Re: Notice of Preparation of a Draft Environmental Impact Report for the Pavilion at Oceanside Project

Dear Mr. Hittleman:

The San Luis Rey Band of Mission Indians hereby submits the following comments on the Notice of Preparation of a Draft Environmental Impact Report for the Pavilion at Oceanside Project ("Project"). The Tribe has received and reviewed the DEIR.

The San Luis Rey Band ("Band" or "Tribe") is a San Diego County Tribe whose traditional territory includes the current cities of Vista, Oceanside, Carlsbad, San Marcos, Escondido, Fallbrook, and Bonsall, among others. The Band's primary concerns are the preservation and protection of cultural, archaeological, sacred and historical sites of significant to the Band which may be located within the Project area.

The Band is concerned about protecting the unique and irreplaceable cultural resources which will be affected by the Project. The Tribe is also concerned about the appropriate and lawful treatment of Native American human remains and cultural and sacred items which are likely to be disturbed during the Project's development and ground disturbing activities. The Band does have a Most Likely Descendant on file with the Native American Heritage Commission in the event that human remains are discovered during the grading process.

Because of the sensitive area in which the project falls, the need for mitigation measures are undisputed. The strongest protections must be afforded to protect these invaluable resources. The Band intends to use all appropriate and necessary procedures available to ensure that these resources are properly addressed via the CEQA and, if applicable, SB 18 processes.

If the City of Oceanside moves forward with the project, we would request the following mitigation measures be a mandatory requirement for the grading permit. The DEIR requires Native American monitors, but given the location of the project in the Band's traditional

territory, it is more appropriate that the monitors be specifically from the San Luis Rey Band. To ensure a complete and undisputed understanding by all parties regarding the protection of these priceless resources, the Band respectfully requests that the following mitigation measures be added as mandatory conditions for approving the grading permit for the Project. The Developer must be required to submit written proof of these requirements before the permit may be issued.

1. The Developer must execute a Pre-Excavation Agreement with the San Luis Rey Band prior to any ground-disturbing activities on the Project site. The agreement will, at minimum, include the following provisions:

   A. Require appropriate treatment of human remains and cultural items.
   B. Require a good faith effort by the parties to agree on what is appropriate treatment and dignity when addressing human remains and cultural items.
   C. Require that any human remains or cultural items recovered during the grading process be returned to the Band, and not curated in a facility absent the express written consent of the Band.
   D. Require that any remains or cultural items discovered be re-interred in the same area in which they were discovered and in a place where they would not be subject to further disturbance, if possible. The agreement would require a good faith negotiation on behalf of the Tribe and the City for such reburial. 105.
   E. Require avoidance for all significant and sacred archaeological sites which may be found during development. Avoidance is the preferred method of preservation under CEQA for such resources.
   F. Require Native American monitors from the Band to be present during all ground-disturbing activities.
   G. Provide for the compensation of tribal monitors at the expense of the Developer.

2. Additionally, the Band requests that Native American monitors from the San Luis Rey Band specifically be added as a mandatory requirement, in addition to any archaeological monitor required by state law. 106.

If the project is approved, the San Luis Rey Band believes that the mitigation measures described above will provide adequate protection for the cultural resources and human remains that may be discovered in the Project area. The Band intends to carefully monitor this Project to ensure that the requirements imposed by CEQA and, if applicable, SB 18 are rigorously applied for the duration of the Project. 107.

The Band truly appreciates the commitment of the City of Oceanside to continue consultation with the Tribe during the Project. The Band has been working closely with the Developer on incorporating the Tribe, its cultural heritage, and importance in the region in the design of the project, and looks forward to continuing this dialogue. We look forward to

105. Comment noted. The suggested mitigation measures are listed in the Mitigation, Monitoring, and Reporting Program (MMRP, see Chapter D of the FEIR) and will be made conditions of approval for the grading permit. Regarding Item E, every reasonable effort will be made to avoid impacts to any significant or sacred areas encountered during grading/development. Complete avoidance of an entire archaeological site that covers much of the project area may not be feasible.

106. Comment noted. The requirement for monitors from the San Luis Rey Band is listed in the MMRP and will be made a condition of approval for the grading permit.

107. Comment noted.

continuing this positive relationship and we thank you for your assistance in protecting our invaluable Luiseño cultural resources.

Sincerely,

CALIFORNIA INDIAN LEGAL SERVICES

Michele Fahley, Staff Attorney
Attorneys for the San Luis Rey Band of Mission Indians

cc: Carmen Mojado, Secretary of Government Relations, San Luis Rey Band of Mission Indians

July 8, 2008

Jerry Hittleman
City Planner
City of Oceanside Planning Department
300 N. Coast Highway
Oceanside, CA 92054

Subject: Comments on DEIR
The Pavillion at Oceanside

Dear Mr. Hittleman:

The San Diego Chapter of the Sierra Club is concerned about development projects that impact sensitive natural resources. The proposed Pavillion Project will have direct and indirect impacts in an area adjacent to the San Luis Rey River and within the Wildlife Corridor Planning Zone identified in the City of Oceanside Sub-Area Plan (SAP). These impacts have not been completely identified and sufficient mitigation has not been proposed. We appreciate that this project has undergone significant changes since the NOP of last year. While these have reduced the potential adverse environmental impacts of a project of this size, we have two primary issues of concern. These include the viability of the regional wildlife movement corridor which goes right through this property and the impact on the watershed from the addition of acres of impermeable cover.

The following are our comments on DEIR for the Pavillion Project:

Project Objectives

- Not one project objective related to protecting the sensitive resources of this site- adjacent to the San Luis Rey River and with a key segment of the regional wildlife movement corridor right through the site. We would like to see the sensitivity of the site acknowledged in the project objectives, and more importantly, serve as a key factor in determining project design. 108.

Land Use

- The project proposes three drive-through uses- each of which will require a Conditional Use Permit. The primary drive-through uses in this area for parcels of the size proposed are banks or fast-food restaurants. While banks are not high trip generators- fast food restaurants are and this is a project that is adding to traffic congestion. Drive-through facilities require more pavement for circulation routes and cause additional air quality impacts from idling vehicles. It also discourages the kind of multiple use of the site encouraged by the design. There are already numerous fast-food facilities along this corridor. The project applicant has said he expects that only 2 drive-through uses will end up on the site, but that three are incorporated in the plans to provide for better flexibility of location choice by future tenants. Because this land use is discretionary, and will adversely impact the watershed and air quality we would like to see all drive through facilities eliminated from this site plan. 109.

Biological Resources

- The project proposes direct impacts to .12 acres of southern willow scrub, .39 acres of disturbed willow scrub, and .22 acres of disturbed wetland- all protected wetlands habitats. ACOE and DFG [permits, and the MHCP all require that impacts to wetlands are first avoided, and then minimized. The DEIR has not demonstrated that any effort has been made to avoid and minimize these impacts. 110.

1

Sierra Club/Nygaard

108. The project objectives (listed on page 3 of the DEIR) include implementation of the City's Community Commercial land use designation, "...in conformance with City zoning requirements and General Plan land use goals and principles." While not explicitly restating all General Plan goals, the intent is clearly stated in the EIR that the project include conformance with them.

The paragraph prior to the Project Objectives (on page 3 of the DEIR) clearly identifies that the property is located within the proposed Wildlife Corridor Planning Zone (WCPZ) per the City of Oceanside's draft Subarea Plan (SAP). The Biological Resources section of the DEIR (Section III-C) evaluated the compatibility with the Draft Habitat Conservation Plan and Subarea Plan, impacts on future implementation of an Oceanside HCP and the San Luis Rey River (see pages 70-71 of DEIR).

The importance of biological considerations relative to the project is clearly addressed in the DEIR. It is also reflected in the coordination efforts made during the process of project review and environmental review, when the applicant and city staff met with the resource agencies, the Science Review Panel, and interested environmental group representatives, including the author of this comment letter, to address the biological conditions at and near the site. Based on all of this input, the applicant has indicated its willingness to proceed with the Alternative C design (Reduced Project/Subarea Plan Alternative) as the project in recognition of the biological considerations for the adjacent corridor area.

109. As noted in this comment, the project design incorporates the potential for three drive-through uses. These are a small portion of the overall center, which includes opportunities for a wide range of commercial needs and uses, but they provide an important component for providing convenience uses within the shopping center.

As noted in the project description, the site is regionally oriented, located just north of Highway 76, with access via the Circulation Element roadways of Mission Avenue and Foussat Road/Pala Road. The drive-through uses contribute to the ability of the project to provide a variety of retail and commercial services in an efficient manner near these major intersections. The limited (3) proposed drive-through facilities are designed in compliance with the Zoning Ordinance standards and are considered appropriate for a site of this nature. These uses have been located to serve the projected convenience needs within the center, in compliance with zoning standards, while minimizing any potential for environmental impacts.

While specific tenants have not yet been identified, the individual sites for the uses with drive-through facilities were designed to address location, circulation and access requirements, and including these as part of the overall design allows for review of the proposed locations and design in the context of the overall center. The environmental analyses for the project included the effects of these drive-through uses as a component of the overall project impacts, and no significant impacts to the watershed or air quality were identified.

110. See Response to Comment No. 61. As discussed in the DEIR and Project Biology Report, the small, disturbed wetland/riparian habitats on the project site are of low quality and appear to be sustained (at least predominantly) by runoff from impervious surfaces from the adjacent drive-in theater, and are isolated from any "natural" wetland in the project vicinity. The small wetland areas are also located in the approximate center of the property. Preservation of the wetlands onsite is not warranted, even with a reduced project, because it would create a small island of low quality disturbed habitat in the middle of a shopping center. The only nearby native habitat is the San Luis River located north of the levee, north of the site, and the wetland vegetation north of the project on the south side of the levee. The wetlands onsite are not connected with either of theses areas.

Please add some discussion to the DEIR that shows the required process has been followed and that the proposed impacts are actually the minimum that could have been achieved.

- Sensitive wetland habitat requires mitigation at a 3:1 ratio. The impacts to .12 acre of southern willow scrub are proposed as .28 acres of wetland creation, with an additional 20' wide upland habitat buffer. We appreciate that the buffer supports improved function of the wetlands- but this does not comply with the minimum 3:1 creation requirement. Full mitigation of 3:1 should be provided, with appropriate additional upland buffers to assure its functionality. (ie at least .36 acres of creation). 111.

- Wetland vegetation communities have the highest level of conservation and are assumed to be 100% conserved both inside and outside of the FPA. The MHCP (Vol 1 page 3-6) states " This calculation assumes 100% conservation of existing vegetation acreage as well as 100% conservation of biological functions and values as they pertain to MHCP species using these habitats." The EIR must assess both the quantitative and qualitative impacts of the proposed wetland buffer- not just the proposed change to the buffer. 112.

  Mitigation needs to be included for the qualitative impacts to the buffer area and not just the direct acreage impacts. Presumably adding the 20' upland buffer is intended to address this but please discuss in terms of qualitative protection of the wetland.

- Full MHCP edge effect conditions have not been addressed in the proposed mitigation measures. City staff has a standard list of MHCP edge effect conditions for projects with, or adjacent to sensitive habitat. This project should be conditioned to address all of the standard MHCP edge effects. 113.

- Mitigation implementation and monitoring does not specify endowment for assuring management of the mitigation lands in perpetuity. The Mitigation Measures should specify the timing of the conservation easement and who will hold it, and financing conditions for the management of the mitigation lands. 114.

- The project is located within the Wildlife Corridor Planning Zone (WCPZ) designated in the draft Oceanside sub-area plan. The Scientific Review Panel (SRP) assessed alternatives that could provide for corridor connectivity. The applicant has stated it is their intent to propose the Reduced Project/Draft Subarea Plan Alternative as the project in the FEIR. This alternative will reduce the biological impacts by providing a 100' wide corridor adjacent to the 100' wide SDG & E corridor thereby providing a functional 200' wide corridor for wildlife movement. However, for this to work there are a number of critical conditions that must be addressed- and that have not been included in the DEIR. This proposed corridor is adjacent to residences. While it will need to be re-vegetated to function for wildlife, there will likely be restrictions on vegetation for fire safety. The details of the revegetation, and fire department sign-off must be included in order to determine that the proposed corridor can function adequately for wildlife movement. 115.

- Furthermore SDG & E has a bad history of clearing land and impacting vegetation where they are not supposed to. There needs to be assurances that SDG & E will comply with the vegetation conditions on their half of the corridor- in perpetuity.

- The SDG & E half of the corridor has a concrete drainage channel through it. Maintenance and access to this channel will become a permanent, intermittent impact to the corridor. These impacts were not identified and no mitigation was proposed. Please discuss the maintenance plan for this 116.

2

111. See Response to Comment No's 61 and 110. In terms of biological functions and value, the type and quantity of wetland/riparian mitigation proposed adequately addresses the project's impacts. However, while the blanket comment that "sensitive wetland habitat requires mitigation at a 3:1 ratio" is not accurate, it is true that regulatory agencies like the Army Corps of Engineers and the California Department of Fish and Game may require additional mitigation in connection with the regulatory permits such agencies issue. See also Response to Comment 61. Buffers are not provided for the onsite habitat because no onsite riparian habitat is being preserved. The wetland creation mitigation site (shown in the Wetland Mitigation Plan included with Response to Comment No. 61 above) and on Figure IV.C-6, Page 86, of the DEIR) to the north is buffered by adjacent wetland habitat on the east and the SDGE easement to the west.

112. See Response to Comment 111.

113. Edge effects from this project to the San Luis Rey River are minimal given the levee that separates the project from the San Luis Rey River and the urbanized nature of the other surrounding areas. Any potential indirect effects (edge effects) are addressed by mitigation measures on Page 72 and 73 of the DEIR, and by the new mitigation measure described in Response to Comment 84.

114. It is not entirely clear what the comment is referring to when it uses the term "mitigation lands." The area where a portion of the wetland mitigation (consisting of creation) will occur is owned by the City of Oceanside and will be set aside as mitigation for this project. Wetland mitigation consisting of arundo removal is proposed to occur within the San Luis Rey River pursuant to the well-established program implemented by the Mission Resource Conservation District.

115. The proposal to preserve a portion of the site (along the eastern edge) to serve as a part of a "stepping-stone corridor" for avian movement through Central Oceanside is not mitigation for project impacts, but is rather an alternative the applicant has indicated it has accepted in order to further the City of Oceanside draft Subarea Plan goal of facilitating wildlife movement (especially for avian species like the gnatcatcher) from one core area to others throughout the City. The land the project will set aside for this purpose would be permanently preserved through the execution of a conservation easement or deed restriction, which will be reviewed by the Wildlife Agencies.

The specific approach to the ongoing management of the City of Oceanside Subarea plan habitat lands, of which the on-site corridor will be a part, is not part of and beyond the scope of the Pavilion project. As noted in Response to Comment No. 63f, the long-term maintenance of the on-site corridor will be a condition of project approval regardless of property ownership or leasehold conditions. The overall management plan, program, and strategy for the City-wide Subarea Plan is a subject for the Subarea Plan, not this project.

116. By agreeing to proceed with the Reduced Project/Subarea Plan alternative, the applicant is furthering the City's ability to adopt and implement a Subarea Plan the Wildlife Agencies can concur with, but it is not accurate to characterize this as an alternative meant to "reduce project biological impacts." Consequently, while the commenter is correct that there are a variety of implementing details that must be worked out to ensure the proposed corridor functions as intended (and as required for the Wildlife Agencies to concur with the City's Subarea plan), these implementation details are beyond the scope of the Pavilion project and are not required to mitigate for any project's biological impacts. Nevertheless, the City acknowledges the points raised, including: (1) native planting within the future corridor may need to use a low-fuel volume palette (the Science Review Panel (SRP) report specifically recognized this and suggested a possible palette appropriate to the site that will be reviewed with the Fire Authority); (2) SDG&E will need to cooperate in the establishment of the corridor, which includes land it owns in fee (the commenter may well be aware that SDG&E has committed, in its adopted Natural Communities Conservation Plan, to allow its fee owned rights of way to be utilized for habitat purposes where appropriate and consistent with its utility operations); (3) the portion of the proposed corridor on the Pavilion site (not SDG&E's property) contains a concrete box culvert and as such can't be replanted with native vegetation (the SRP report specifically recognized this constraint but opined that it would not preclude the proposed corridor from functioning as intended); and (4) the SRP report opined that a second stepping-stone corridor should also be established (a western corridor) as part of the City's ultimate Subarea Plan in order to further the MHCP and draft Subarea Plan goal of facilitating movement of gnatcatchers (and other avian species) located to the south and north of the City of Oceanside. The Wildlife Agencies have made similar points in discussions with the City, and the City understands that these points will need to be fully addressed in order to successfully conclude its Subarea Plan efforts.

applicant the proposed site design provides 40 parking spaces more than the City requirement of 4 spaces/1,000 square feet. This project site has made extra provisions for access by public transit, is connected to a major regional bike route and provides for good pedestrian access from other nearby land uses. All of these factors will reduce the mode split share of users of this center arriving by automobile. Site design to minimize impacts on the watershed should reduce the amount of paving for parking lots. The project should be conditioned for a maximum number of parking spaces based on reasonable assumptions about mode split. In addition, permeable or semi-permeable parking should be provided in the low use parking areas. 121.

- Vegetated swales are an important component of the site BMP's- yet these are primarily very narrow strips, several of which are not aligned perpendicular to the direction of flow where they would be most effective. Please discuss the capacity of the proposed configuration of the vegetated swales.

Public Facilities

- Page 145 states that water demands for the project are estimated at 279 acre feet/year while the city of Oceanside 2006 Water System Master Plan (WSMP) estimated use of 146 acre feet/year. While the analysis concluded that there is sufficient water capacity in the programmed improvements, is this realistic if the estimation method used for the other projects in the WSMP has such a high error factor? Please discuss the cumulative adequacy of projected water supply in light of the huge discrepancy. 122.

- The project proposes to significantly increase the area of landscaping, which will effect the on-site water use. Please identify how much water is proposed to be used for landscaping. We would also like to see further efforts to reduce water use and run-off such as full integration of rain water into landscaping irrigation system. 123.

- The impacts of the high percentage of landscaping and resultant high water use could be reduced by maximizing the use of native plants. Please identify what efforts have been made to use appropriate low water use native plants. 124.

Alternatives Analysis

- The Pala Road extension causes huge impacts that have not been adequately addressed with this project. Noise mitigation will require the construction of a 10' sound wall on each side of the road- but such walls have impacts there were not evaluated- this would include potential impacts on the regional wildlife corridor that would have two 10' walls plus an additional arterial road crossing. The DEIR failed to evaluate the impacts of this soundwall. 125.

  The sensitive wetland habitat impacts from the Pala Road extension are over 6 times as great as those of the project (4.56 acres/ .73 acres). There is no discussion of efforts to avoid/minimize these impacts, rather is just proposes mitigation. This avoidance/minimization analysis is a requirement of federal and state law, the MHCP, and the city of Oceanside SAP. This is of particular concern because the area of impact is one of a very few potential least Bell's Vireo nesting areas, is designated as a Critical Habitat area for this species, and will impact four state and federally designated sensitive animal species.

  This proposed roadway alignment also impacts an area identified in the draft SAP as a priority restoration site. Paving this proposed restoration site has both direct impacts on the SAP and cumulative impacts to the regional wildlife movement corridor. 126.

121. See Response to Comment No's 8-13 and the Updated Storm Water Management Plan included with Response to Comment No. 28 and Response to Comment No. 27.

Vegetated swales for water quality enhancement are discussed on page 108 of the DEIR, and are noted on Figure IV.G-4, pages 119 – 120. Approximately 10,400 linear feet of internal vegetated swales and approximately 14,400 square feet of perimeter vegetated buffer areas are included in the proposed project design. Runoff in the swales would flow at less than two feet per second, and all runoff being treated for water quality by the swales would flow through approximately 100 feet of swale before entering the storm drain system. The swales are designed in concert with the parking lot grades to provide swales that remain at a constant depth in relation to the adjoining parking. Swales are sized to treat the lower flows of the first flush storm water in accordance with numeric sizing and Best Management Practices (See Response to Comments 20-24).

122. The Water System Master Plan utilized established water use estimates for general land uses, as it needed to cover a wide array of land uses, potential land uses, and area. Analysis at a project level, as was done here, can use more specific land uses. Under a more specific analysis, some projects will be found to have a higher demand than under the general land use assumptions, and some projects will be found to have a lower demand. A water system master plan is designed to analyze the overall system, not any one particular parcel or project.

123. It is acknowledged that as part of this commercial center development, there will be site landscaping to meet City requirements for landscaping of the site, the parking areas, buffers, pedestrian and bike connections as well as storm water quality swales within the property, increasing the water used for landscaping above that currently used onsite. The plants selected for the project have been chosen for their low to medium water use to limit the amount of water used on site for irrigation. The large number of vegetated swales located throughout the site will use rainwater and runoff that will further limit the need for irrigation water use in these areas on site. The landscape plan is still in a conceptual phase and the irrigation plans have not been prepared that would quantify the amount of water that is being used. However, the project is planned to use water efficient irrigation techniques and products. A copy of the conceptual landscape plan is on file with the City of Oceanside's Planning Department.

124. The landscape palette for the project focuses on low to medium water use plants including native and adaptive species. It is the intent of the landscape plan to use water efficiently on this site and using a number of native and adaptive species will keep water use low.

125. It is acknowledged that the Off-Site Pala Road Extension Alternative has significant impacts to wetland habitat that supports sensitive riparian species, including state and federally listed species. The alignment shown in the DEIR Alternative is based in part on efforts to minimize impacts to wetland habitat, but there is no feasible option for avoidance or further minimization. In order to connect with the existing Pala Road on the north (see Figure VI.B-3 in the DEIR), there is no physical means to avoid the wetlands which support the sensitive species. The road extension would need to traverse Park Pond, and the selected option crosses the shortest portion of wetland habitat. Alternate alignments of the road through Park Pond would have similar or increased habitat impacts. An option regarding the off-site extension of Pala Road is to simply not construct it, which is what the Proposed Project and the Reduced Project / Subarea Plan Alternative propose. The extension of the road is not proposed by the applicant as part of the project, and the EIR analysis details the changes in specific traffic conditions between the various alternatives.

Please see Response to Comment 30 and its attached letter from the Army Corps of Engineers.

126. It is acknowledged that the Off-Site Pala Road Extension Alternative would cross the westerly portion of the area shown on the list of priority areas for habitat restoration. This area is shown as the upland areas on Figure VI.B-3 of the DEIR, at the south end of the extension. It should be noted that the restoration potential for this site is listed as "unknown" in Table 3-4 of the Draft Subarea Plan. With regard to wildlife corridor impacts, please see Response to Comment 120.

Furthermore, a hazardous materials study has not been performed, Park Pond capacity will be reduced by 55 acre-feet reducing its ability to contain run-off and potentially adding further cumulative water quality impacts to the watershed and it is not in compliance with SDG & E clearance requirements for transmission lines. 127.

Under the CEQA guidelines the purpose of alternatives analysis is to consider changes that would have lesser environmental impacts than the proposed project. This alternative has greater impacts on 8 of the 12 evaluation criteria. In spite of these huge impacts, no alternative roadway alignments were proposed for evaluation. Furthermore inadequate mitigation has been proposed for these impacts. This roadway extension has no nexus with the proposed project. It is clear that it was included in this project EIR as a matter of convenience since it is on the city's Circulation Element. However, the cursory analysis makes it clear that a full EIR of this roadway segment with appropriate alternatives is required before proceeding with this item. 128.

Thank you for your consideration of these comments. We look forward to working with you to achieve a project that fully protects the natural resources of this area.

Sincerely,

Diane Nygaard

Cc: Marci Koski,.Christine Beck

127. It is acknowledged on page 186 of the DEIR that a hazardous materials study would be required prior to implementation of the off-site Off-Site Pala Road extension, and that while the capacity of Park Pond would be decreased, it (and the overall series of ponds) would still be able to contain runoff from unforeseen circumstances, or from future changes in the watershed that could increase runoff. Requirements for compliance with SDG&E standards are discussed on page 190 of the DEIR.

128. It is further acknowledged that per CEQA Guidelines Section 15126.6(b) the discussion of alternatives is to focus on those alternatives which will avoid or reduce the significance of the proposed project. It is clearly stated at the bottom of page 182 of the DEIR that while additional impacts would occur with implementation of this alternative, the City of Oceanside required the DEIR to analyze the impacts of the off-site Pala Road extension because it is ultimately called for by the City's Circulation Element. Alternative roadway alignments are severely limited by the overhead SDG&E transmission lines, the San Luis Rey River levee, and sensitive biological resources associated with Park Pond. As further noted, the applicant is not proposing the extension of the roadway.

May 18, 2008

RECEIVED
MAY 21 2008
Planning Department

140 Fireside Av.
POB 701 San Luis R
92086

Oceanside Planning Department

Subject: Pavilion at Oceanside Project;

Dear OPD

Once again a project (like the ELKS R.V. Park Issue) is in the plan for Special Interest Groups instead of the Citizen. The focus of the City of Oside should be schools, low income housing, and its seniors.
Taxing the water supplie, energy does not make sense. The citizen is now asked to save water, flex this and that. What is to be done is to put this and every other big ticket issue to the vote, thank you

Sincerly

Ralph J. Palazzo
Raphael J. Palazzo

129. Comment noted.

Jerry Hittleman

From: Vida Murrell
Sent: Tuesday, July 08, 2008 4:36 PM
To: Jerry Hittleman
Cc: John Amberson
Subject: FW: Pavilion Project

FYI.

From: leanobeach [mailto:wnaegele1@cox.net]
Sent: Tuesday, July 08, 2008 4:31 PM
To: Planning Web
Cc: wnaegele1@cox.net
Subject: Pavilion Project

I together with a lot of the citizens in this area are opposed to the extension of the Pala Road.

the traffic already has increased dramatically since the Louise Foussat elementary school has opened.

The Land as I have understood since moving here in 91 was designated as Park Land, or River bottom Land or a safe place for animals etc. etc.

To put a road through this area will impact the neighborhood in a very detrimental way in my opinion. Our home's back yard is on Pala Road and we see and hear the noise already generated by this increased traffic. 130.

The additional housing on Los Arbolitis has increased traffic and congestion.

The people who will have a "highway" main traffic right behind their homes- where they have had quiet, peace, and only the wild animals and kids playing will be greatly impacted and their home values will decrease as this noice and polution gets into their homes.

I don't believe the benefits will outway the costs to going on with this project of moving forward with the extension of Pala Road. I personally ask you to weigh this again and make other plans less intrusive to this neighborhood.

I also want to know those on the council who vote for this- so that I can make a campaign in the fall election for those in favor of this neighborhood.

Thanks
Warren Naegele
3513 Ponderosa Dr. 760 433 3259
92058

130. Comment noted. Please see Response to Comment No's 129 and 131.

ENDANGERED HABITATS LEAGUE

ORGANIZATION FOR ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE

August 2, 2008

AUG 0 4 2008

Planning Department

Jerry Hittleman
Planning Department
City of Oceanside
300 N. Coast Highway
Oceanside, CA 92054

RE: Draft Environmental Impact Report for the Pavilions Project

Dear Jerry:

The Endangered Habitats League (EHL) appreciates the opportunity to comment on this document. Please enter these comments into the administrative record for the project and make them available to decision-makers at public hearings.

While EHL neither supports or opposes the project *per se*, we are concerned over its potential conformance with the Multiple Habitat Conservation Plan and the draft Oceanside Subarea Plan. Many years in the making, the Subarea Plan would conserve Oceanside's natural heritage and provide streamlined permits for infrastructure and development. As you know, the site is part of a critical coastal sage scrub and gnatcatcher linkage. 131.

In these regards, we appreciate the fact that the applicant and the City have engaged scientific expertise and worked with the wildlife agencies to develop a "Reduced Project/Subarea Plan Alternative." If the City chooses to approve a project, it is essential that this or another Subarea Plan-consistent alternative be selected, in order to successfully implement the MHCP and to avoid significant, unmitigated impacts under CEQA. In addition, all mitigation measures anticipated by the MSCP and Subarea plan, and otherwise recommended by the wildlife agencies, should be carried out.

Thank you for considering our views.

With best regards,

Dan Silver
Executive Director

[illegible] • Phone 213.804.2750 • Fax 323.654.1931

131. Please see Response to Comment No's 59-77 and 111-116.

CHAPTER C

MODIFICATIONS MADE DURING THE PUBLIC REVIEW PERIOD

CHAPTER C

MODIFICATIONS MADE DURING THE PUBLIC REVIEW PERIOD

The following chapter identifies modifications made to the Draft EIR in response to City staff comments during te public review period. Only the revised portions of the modified Draft EIR text are provided.

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No changes were made to the text of the DEIR subsequent to public review.

CHAPTER D

MITIGATION MONITORING AND REPORTING PROGRAM

This document identifies mitigation measures which would reduce or eliminate potential environmental impacts of the proposed development. The City of Oceanside is required to implement all adopted mitigation measures. To ensure compliance, the following Mitigation Monitoring Program and checklist is provided. This program is to be adopted by the Lead and Responsible agencies upon formulation of Findings, to comply with Assembly Bill 3180 (Public Resources Code Section 21080.6).

The Planning, Public Works Department, and Building (Code Enforcement) Departments of the City of Oceanside will administer the Mitigation Monitoring Plan. Augments by possible contract personnel, these Departments are responsible for enforcement of City zoning regulations, which is provided on a full-coast recovery basis by the City. Authorization to commence any on-site activity occurs only after concurrence of the respective City Departments.

Information contained within the following checklist identifies the mitigation measure, the conditions required to verify compliance, the department responsible for determining compliance, and the monitoring schedule. The City of Oceanside determines which measures are applicable to the specific discretionary actions identified in the monitoring schedule.

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PAVILION AT OCEANSIDE - MITIGATION MONITORING CHECKLIST

AIR QUALITY			
MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
Mitigation. Short term impacts generated from construction activities would be reduced to levels below significance through surface wetting at least three times daily. Dust control measures such as this will be utilized to suppress dust particulates and keep them from becoming airborne.	CM	Planning Division	During construction and grading

BIOLOGICAL RESOURCES			
MITIGATION MEASURE	TYPE	MONITOR	SCHEDULE
Mitigation. • A monitoring biologist (approved by the City) shall: 1) attend a preconstruction meeting, 2) be present during initial clearing and grubbing of habitat, and 3) be present during project construction within 500 feet of preserve habitat to ensure compliance with all conservation measures. The monitoring biologist shall ensure that: the contractor and construction personnel are educated about the sensitivity of adjacent habitats, construction fencing is installed, seasonal restrictions on grading are followed, trash is removed from sensitive habitat areas or adjacent areas, vehicle fueling occurs outside sensitive areas, pets of project personnel are not brought to the project site, construction night lighting is minimized to avoid impacts to sensitive habitats, and violations are reported and mitigated appropriately. The biologist shall submit a letter to the City that documents compliance with mitigation measures at the conclusion of construction.	CM	Planning Division	During grading and construction
• Wetland impacts to 0.12 acre of southern willow scrub shall be mitigated at a 3:1 ratio (0.36 acre); impacts to 0.39 acre of disturbed southern willow scrub and 0.22 acre of disturbed wetland shall be mitigated at a 2:1 ratio (0.78 acre and 0.44 acres, respectively), for a combined total of 1.58 acres. Mitigation for these impacts would be accomplished off-site by a combination of wetland creation and purchase of mitigation credits from the Mission Resource Conservation District arundo (giant reed) removal program. The mitigation for jurisdictional areas will include creation of 0.28 acre (no net loss) and purchase of 0.40 acre of mitigation credits. Due to the highly disturbed nature of the habitats, mitigation for non-jurisdictional areas (0.62 acre) will consist of purchase of mitigation credits. The total mitigation for	CM	Planning Division	Upon project completion

BIOLOGICAL RESOURCES CONT.			
MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
wetland impacts (including jurisdictional areas) would consist of creation of 0.28 acre and purchase of 1.3 acres of mitigation credits. • The proposed wetland mitigation plan would create 0.28 of wetland habitat with a 20-foot wide Diegan coastal sage scrub buffer totaling approximately 0.11 acre on a site located approximately 500 feet north of the project boundary and located within designated critical habitat for the least Bell's vireo.	CM	Planning Division	Upon project completion
• Impacts to upland habitat consisting the loss of 39.8 acres of non-native grassland shall be mitigated at an 0.5:1 ratio (19.9 acres). While the Draft HCP envisions mitigation within the proposed WCPZ for the loss of habitat within the proposed WCPZ, no pre-approved mitigation areas or banks are currently available within the proposed WCPZ. The location of all off-site mitigation will require consultation with the City of Oceanside and the resource agencies.	CM	Planning Division	Upon project completion
• While the proposed plant list for the on-site 100-foot wide corridor currently consists of native species including coastal sage scrub constituents that are compatible with the City's recommended plant guidelines, the final species selection will be subject to approval by the fire marshal as part of landscape work drawings.	CM	Planning Division	Upon project completion
• The conservation easement over the onsite 100-foot corridor will be provided for review and approval by the Wildlife Agencies as a condition of project approval.	CM	Planning Division	Prior to project grading

BIOLOGICAL RESOURCES CONT.			
MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
Indirect impacts. To avoid potential indirect impacts to sensitive species occupying the off-site habitat along the San Luis Rey River, the following measures shall be implemented: • Invasive Species: Landscaping within the development area shall avoid the use of invasive non-native plants, detailed in Table 5-5 of the draft HCP and/or the California Invasive Plant Inventory.	CM	Planning Division	Upon project completion
• Seasonal Restrictions on Grading. No grading, grubbing, or clearing shall be allowed during the breeding season for least Bell's vireo (March 15-September 15) or raptors (January 31-July 31) unless preconstruction surveys are conducted to determine if these species occur within areas that would be impacted by noise levels greater than 60 dB L_{eq}. If these species are nesting within this area at the time, these construction activities shall either (1) be postponed until all nesting/breeding behavior has ceased, or (2) a temporary noise barrier or berm is constructed at the edge of the development footprint to ensure that noise levels are reduced to below 60 dB L_{eq}.	CM	Planning Division	During grading and construction
To ensure compliance with the Migratory Bird Treaty Act, clearing of any native vegetation shall be done outside the breeding season of most avian species (February 15-July 31), unless pre-construction surveys are conducted to determine that no nesting birds are present immediately to clearing nor are in areas which could be impacted by noise.	CM	Planning Division	During grading and construction

BIOLOGICAL RESOURCES CONT.			
MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
• Construction limits: To ensure that construction activity remains within the defined limits of work, all construction and staging areas shall be fenced with orange construction fencing and silt fencing or fiber rolls. Delineated areas shall be regularly inspected by the project biologist per the construction monitoring schedule.	CM	Planning Division	During grading and construction
• Lighting: Lighting within the project area adjacent to the San Luis Rey River shall be selectively placed, directed away from the river, and of the lowest illumination possible for human safety.	CM	Planning Division	During grading and construction
Mitigation Implementation and Monitoring. Proof of purchase of mitigation credits or other mitigation methods such as preservation/ conservation for the loss of on-site upland habitats shall be required prior to issuance of the project's grading permit. Mitigation for the loss of jurisdictional waters would be conditions of the permits issued by the ACOE and CDFG. The applicant will submit the required jurisdictional delineation to the Corps as part of Clean Water Act permitting. Said permits will be obtained prior to grading in these areas. The proposed wetland mitigation plan (Appendix C) includes a 5-year monitoring program that includes regular monitoring visits, an annual report on the success of the restoration effort and the need for any remedial actions, and a final report at the end of the 5-year program.	CM	Planning Division	Prior to project grading

CULTURAL AND PALEONTOLOGICAL RESOURCES			
MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
Cultural Resources. An archaeological monitoring program would be implemented to ensure that project development would have no significant impacts to cultural resources within the project area. The program would consist of the following:			
• The development of a pre-excavation agreement between the applicant and the appropriate Luiseño tribe(s) or other Native Americans as determined by the City.	CM	Planning Division	Prior to project grading
• The presence of a qualified archaeologist and invitation to a Native American monitor at the pre-construction meeting.	CM	Planning Division	Prior to project grading
• A Native American monitor to be invited and an archaeological monitor will be on-site during initial grading, trenching, or other ground-disturbing activities of existing soils. Monitoring will not be required during the subsequent soil import and grading operations as it will not disturb native soils.	CM	Planning Division	During grading and construction
• The analysis of any cultural material found.	CM	Planning Division	During grading and construction
• The preparation of a report detailing the methods and results of the monitoring program.	CM	Planning Division	During and/or following grading and construction
• The curation or repatriation of the cultural material collected.	CM	Planning Division	During and/or following grading and construction
Implementation of this monitoring program would ensure that project development would have no significant impacts to cultural resources within the project area.			

CULTURAL AND PALEONTOLOGICAL RESOURCES CONT.			
MITIGATION MEASURE	TYPE	MONITOR	SCHEDULE
Paleontological Resources. The following measures are required to offset potential impacts to paleontological resources:			
• Prior to issuance of grading permits, the applicant shall confirm to the City of Oceanside that a qualified paleontologist has been retained to carry out the mitigation program. (A qualified paleontologist is defined as an individual with an M.S. or Ph.D. in paleontology or geology who is familiar with paleontological procedures and techniques.) The paleontologist shall attend pre-grade meetings to consult with grading and excavation contractors.	CM	Planning Division	Prior to project grading
• A paleontological monitor shall be onsite during grading operations to evaluate the presence of fossils within previously undisturbed sediments of the Santiago Formation to inspect cuts for contained fossils. (A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials.) The paleontological monitor shall work under the direction of a qualified paleontologist.	CM	Planning Division	During grading and construction
• When fossils are discovered, the paleontologist (or paleontological monitor) shall recover them. In most cases, this fossil salvage can be completed in a short period of time. Some fossil specimens (such as a complete whale skeleton) may require an extended salvage time. In these instances, the paleontologist (or paleontological monitor) shall be allowed to temporarily direct, divert, or halt grading. To allow recovery of small fossil remains such as isolated mammal teeth, it may be necessary in certain instances to set up a screen-washing operation on the site.	CM	Planning Division	During grading and construction

CULTURAL AND PALEONTOLOGICAL RESOURCES CONT.			
MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
• Prepared fossils along with copies of all pertinent field notes, photos, and maps shall be deposited (with the applicant's permission) in a scientific institution with paleontological collection such as the San Diego Natural History Museum. A final summary report shall be completed and distributed to the City and other interested agencies which outlines the results of the mitigation program. This report shall include discussions of the methods used, stratigraphy exposed, fossils collected, and significance of recovered fossils.	CM	Planning Division	During and/or following grading and construction
Mitigation Implementation and Monitoring. Prior to issuance of the project's grading permit, the applicant shall confirm to the City of Oceanside that a qualified paleontologist has been retained to carry out the mitigation program. The paleontologist shall attend pre-grade meetings to consult with grading and excavation contractors.	CM	Planning Division	Prior to project grading

GEOLOGY/SOILS			
MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
Mitigation. To mitigate the potentially significant impacts associated with ground settlement, the following mitigation measures shall be implemented: • Loose surficial soil in the upper 1 to 2 feet would be over-excavated prior to placement of fill or in building pad locations. The upper 5 to 10 feet of soil, which is loose to medium dense, would be over-excavated in deep fill areas, and compacted as engineered fill.	CM	Engineering Division	During grading and construction
• To mitigate potential differential settlement of structures, two options may be used. One is to perform conventional grading with reduced foundation bearing capacities, and the other would be to improve the subsurface with deep dynamic compaction with higher bearing capacities for foundations. On-site soil generated from cut areas following clearing and grubbing that is free of excess organic material (3% or less by weight) or debris may be suitable for use as structural fill. Imported Select Fill should be non-expansive, having a Plasticity Index of 12 or less, an R-Value greater than 40, and enough fines so the soil can bind together. Imported soil should be free of organic materials and debris, and not contain rocks or lumps greater than 3 inches in maximum size. Imported Select Fill shall be approved by the geotechnical engineer prior to delivery on-site.	CM	Engineering Division	During grading and construction

GEOLOGY/SOILS CONT.			
MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
Compaction requirements shall be consistent with those specified in the geotechnical report (90-95% relative compaction with 1 to 2% above optimum moisture content), and site grading shall be performed in accordance with these recommendations and the Grading and Earthwork Specifications. Other measures would be implemented to avoid geotechnical impacts: Seismic considerations. Building design would be considered in accordance with the latest edition of the Uniform Building Code (UBC), California Building Code (CBC), or International Building Code (IBC).			
• Pavement recycling. The existing pavement at the drive-in theater would be recycled and used on-site; it would be ground to minus 1-inch and mixed with underlying base rock. This material could be utilized as sub-base material in paved areas or "select fill."	CM	Engineering Division	During grading and construction
• Buried structures. Buried structures/foundations from previous land uses encountered during construction would be removed and replaced with compacted, engineered fill. The upper 7 feet or at least 3 feet below the lowest utility in the area for the movie theater screen foundations would need to be removed.	CM	Engineering Division	During grading and construction

GEOLOGY/SOILS CONT.

MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
• Rainy season grading. If grading is to be undertaken during the rainy season, potential unstable subgrade conditions could be encountered. As appropriate, remedial measures such as removal and replacement, use of a geogrid, or soil treatment would be implemented subject to approval by the City Engineer. With such remedial measures, rainy season grading is allowable, although the geotechnical report recommends that avoiding construction during the rainy season would also avoid impacts with seasonal groundwater fluctuations.	CM	Engineering Division	During grading and construction
Mitigation Implementation and Monitoring. The geotechnical consultant shall review the final project plans prior to construction, to ensure that the plans are in compliance with the recommendations and requirements set forth in the geotechnical studies. A pre-construction conference shall be held with the applicant's representative(s), general contractor, grading contractor, and project geologist prior to clearing and demolition operations. Adequacy of clearing operations shall be verified by the geotechnical engineer's representative during construction, prior to placement of engineered fill.	CM	Engineering Division	Prior to project grading

HAZARDS AND HAZARDOUS MATERIALS			
MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
Mitigation. To avoid significant impacts associated with potential hazardous materials, the following measures shall be implemented.			
• Due to the occurrence of pesticides detected onsite, a Report of Waste Discharge (RWD) must be submitted to the Regional Water Quality Control Board (RWQCB), where the owner/discharger must then acquire waste discharge requirements (WDRs).	OM	Engineering Division	Prior to project grading
• An environmental geologist shall be onsite during grading for observation during soil removal in the area onsite adjacent to the former Mission Auto and Self Storage Center, at the site's southeastern boundary. If petroleum affected soils are encountered, grading will be halted until the soil has been tested and properly removed.	OM	Engineering Division	During grading
• All trash, debris, and waste materials will be disposed of offsite, in accordance with current local, state, and federal disposal regulations and procedures.	OM	Engineering Division	During grading and construction

HAZARDS AND HAZARDOUS MATERIALS CONT.			
MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
• To mitigate for the presence of restricted agricultural residues onsite which were found to slightly exceed the thresholds established in the PRGs, the project shall place the dieldrin and toxaphene affected soil to depths of 2 to 3 feet, as determined by their sample locations This measure would occur in conjunction with the import of more than 400,000 cubic yards of fill required to raise site grades an average of 3 to 4 feet, and would thereby place a minimum fill cap of 3 feet over the affected soil and a minimum of 7 feet above groundwater. Placement of the affected soil shall be in the proposed parking areas of the Pavilion Commercial Center. This would place the affected soil at least 10 feet away from the proposed underground utilities and proposed bio-swales, and more than 1,500 feet west of the San Luis Rey River levee upon grading completion, thus eliminating potential impacts to surface and groundwater.	OM	Engineering Division	During construction and grading
• An asbestos and lead survey shall be performed on the structures that currently occupy the site due to their age and potential for carrying these substances. This survey should be performed by a licensed asbestos/lead contractor prior to demolition, removal, and disposal.	OM	Engineering Division	Prior to project grading
• With regard to airport safety, prior to issuance of building permits, the project will be required to provide evidence of compliance with any imposed height limitations or other FAA overflight safety requirements. The project will submit a Notice of Proposed Construction or Alterations (Form 7460-1) for final FAA approval of height structures, landscape, lighting and other final design elements.	OM	Engineering Division	Prior to building permit
Mitigation Implementation and Monitoring. Proof of remediation of any hazardous materials shall be provided to the City of Oceanside's City Planner and City Engineer prior to the issuance of the project's grading permit.	OM	Engineering Division	Prior to project grading

HYDROLOGY/WATER QUALITY			
MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
Mitigation. The following measures have been incorporated into the project as required to avoid significant impacts to Hydrology/Water Quality.			
• Project designers have incorporated water quality certification requirements and must obtain CWA 401 certification as a project condition.	CM	Engineering Division	Prior to project grading
• All necessary permits shall be obtained from the San Diego Regional Water Quality Control Board (RWQCB) prior to grading in associated areas.	CM	Engineering Division	Prior to project grading

NOISE			
MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
Mitigation. A temporary ten-foot high wall would be constructed along the proposed top-of-slope adjacent to the sensitive habitat area. Implementation of this measure would lower potentially significant noise levels below the Wildlife Noise Regulation thresholds.	CM	Engineering Division	During grading and construction

TRANSPORTATION/TRAFFIC			
MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
Mitigation. Impacts caused by a project (direct impacts) are to be mitigated by that project. Impacts caused by a project and other projects (indirect/cumulative impacts) are mitigated by each project paying its proportional share (fair share). Creative measures are recommended for roadway segments where widening to meet daily traffic volumes is not a reasonable or recommended improvement. <u>Roadway Segments</u> • <u>Mission Avenue between Foussat Road and El Camino Real (project frontage)</u>. *Creative Measure*: The project will install dedicated right turn lane westbound and dual eastbound left turn lanes at the project access road to improve flow along Mission Avenue.	OM	Engineering Division	Upon project completion
• <u>El Camino Real between Los Arbolitos Boulevard and Mission Avenue</u>. *Creative Measure*: The project will contribute its Fair Share costs for the installation of a second northbound left turn lane from El Camino Real onto Los Arbolitos Boulevard, to improve northbound traffic flow on El Camino Real.	OM	Engineering Division	Upon project completion

TRANSPORTATION/TRAFFIC CONT.			
MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
• North Douglas Drive between Pala Road and El Camino Real. The City of Oceanside's General Plan Land Use Element has noted acceptable LOS could be obtained by constructing this roadway segment as a six-lane major arterial, but due to right-of-way constraints only a four-lane major arterial can be accommodated. *Creative Measure*: The segment can be improved by installation of dual northbound left turn lanes at Pala Road to improve flow on Douglas Drive will be done by the project. This improvement is also needed to mitigate project intersection impacts, and thus the project will construct this improvement. These creative measures will improve traffic flow on these segments. At this time, the widening of SR 76 is planned by Caltrans, and that widening is assumed as being in place for analytic purposes, but funding and commencement dates have not been established.	OM	Engineering Division	Upon project completion
Intersections • Rancho Del Oro Drive/SR-76. The project shall construct a dedicated northbound right turn lane on Rancho Del Oro Drive and improve signal phasing at the intersection of Rancho Del Oro Drive/SR-76. As this improvement falls within the Caltrans right-of-way, encroachment permits will be required to complete this improvement. In the event the project is unable to acquire the necessary encroachment permits from Caltrans in order to start construction of the improvements prior to project occupancy, the project shall contribute in cash, letter of credit or other form acceptable to the City, prior to occupancy, an amount equivalent to the cost for design and	OM OM	Engineering Division Engineering Division	Upon project completion Upon project completion

TRANSPORTATION/TRAFFIC CONT.

MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
construction of the identified northbound right turn improvements and signal phasing. Use of these funds to complete improvements shall be at the discretion of the City of Oceanside Traffic Engineering Division in cooperation with Caltrans, but such funds shall be used exclusively for the overall improvement of traffic conditions at this Rancho Del Oro Drive/SR-76 intersection to mitigate incremental project impacts.			
• Pala Road/ North Douglas Drive. The project will modify the traffic signal and phasing to include an eastbound right-turn overlap from Pala Road onto North Douglas Drive. The project will install dual northbound left-turn lanes at Pala Road to improve traffic flow on North Douglas Drive. These measures will improve LOS to C.	OM	Engineering Division	Upon project completion
The import of fill portion of the project is of short duration, but the additional truck traffic will result in a deficient level of service on the segment of El Camino Real between Mesa Drive and Oceanside Boulevard. The Short-term Cumulative analysis found the segment would operate at a deficient level with or without this truck traffic. The City of Oceanside has planned roadway improvements for segments of El Camino Real, which are expected to be completed in 2008. The City has directed this project be responsible for videotaping roadway conditions prior to and after truck activities are completed. Project truck drivers will maintain daily logs of roadway conditions and report damages greater than normal wear and tear of the	OM	Engineering Division	During grading and construction

TRANSPORTATION/TRAFFIC CONT.			
MITIGATION MEASURES	TYPE	MONITOR	SCHEDULE
roadways. Roadway damage directly caused by the project's truck hauling activities will be the responsibility of the project applicant. Since El Camino Real is designated by the City as a truck route, normal wear and tear and damages unrelated to project traffic will not be the responsibility of the project applicant. The length of time of impact could be lessened by extending the daily work time to eight hours (7:30 am - 3:30 pm) and by extending the work week to include Saturday (Appendix I). This would result in a total duration of approximately 44 working days over an approximately seven- to eight-week period. All queuing and stacking of haul trucks will be managed on-site, at both the project site and El Corazon, to minimize impacts on public roads. This may require an extension of the driveways and stacking areas. <u>Impacts Not Mitigated to below a Level of Significance</u>. The segment of North Douglas Drive between North River Road and Pala Road shows significant impacts to traffic flow due to the constraints of the bridge over the San Luis Rey River, included in this roadway segment. The impact of the trucks hauling material on the roadway segment of El Camino Real between Mesa Drive and Oceanside Boulevard would be a short-term impact that is not mitigated to below a level of significance.			

TYPE:

CM = Construction Mitigation
OM = Operations Management