



City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069

ATTACHMENT H
Public Comments

From: Blain Breining [blain.breining@gmail.com]
Sent: Saturday, March 19, 2016 12:38 PM
To: Qureshy, Saima
Subject: Application P15-0068

Ms. Qureshy, I live in the Santa Fe Hills neighborhood off of Los Posas Rd. My family is strongly opposed to the plan to develop the land west of Las Posas Rd. Here are some of our concerns and reasons for this opposition.

1. Increased traffic on Los Posas Rd and increased time it takes to reach Route 78. Because of all the traffic lights and the train the time to get to Rt. 78 could be as high a 15 minutes.
2. Paloma Elementary School where my grandson goes to school is already crowded.
3. Water conservation. There is a drought in southern CA and adding 200 new homes and families will increase demand on our most precious resource.
4. I have hiked this area and am concerned about the wildlife and small pond that lies in this area. This development would mean the loss of a beautiful natural preserve.

Please consider these and all other concerns with great weight as brought to you by our community before allowing this development to continue.

Thank you,

Sincerely,

Blain Breining
857 Via Barquero
San Marcos, CA 92069

PC AGENDA ITEM # 3

From: Bruce & Simone
To: Qureshy, Saima
Subject: Las Posas Project
Date: Wednesday, March 16, 2016 8:50:12 PM

Hi Saima,

Re: Application P15-0068, is this a watered down version of The Highlands project? Or just a portion of it? Applicant appears as ColRich, but who is that? Is Mr. Kubba involved?

Thank you,
Bruce

RE Las Posas Project

From: Qureshy, Saima
Sent: Thursday, March 17, 2016 2:39 PM
To: 'Bruce & Simone'
Subject: RE: Las Posas Project

Mr. Bruce -

The Murai Project is located to the west of Las Posas Road (where is currently ends). It is to the southwest of Highlands project. A Vicinity Map is included in the notice that was mailed out to you. Let me know if you need any further assistance in locating this property.

Thank you.

Saima Qureshy, AICP
Principal Planner
City of San Marcos
760-744-1050 ext. 3232

-----Original Message-----

From: Bruce & Simone [mailto:bruceandsimone@gmail.com]
Sent: Thursday, March 17, 2016 2:01 PM
To: Qureshy, Saima
Subject: Re: Las Posas Project

Thank you. Is this located adjacent to the Highlands project? Where is it in relationship to that project?

thanks,
Bruce

On 3/17/2016 8:52 AM, Qureshy, Saima wrote:

> Mr. Bruce and Simone -
>
> Thank you for your e-mail inquiring about the Murai project.
>
> P15-0068 is a separate project and is not part of The Highlands project. This property is owned by Murai-
SAB, LLC.
>
> The applicant/developer for this project is ColRich and Mr. Kubba is not involved with this project.
ColRich is a developer and their web site provides further information on what other projects they have built
in the San Diego County area.
>
> Let me know of any other questions.
>
> Thank you.
>
> Saima Qureshy, AICP
> Principal Planner
> City of San Marcos
> 760-744-1050 ext. 3232
>
>
> -----Original Message-----
> From: Bruce & Simone [mailto:bruceandsimone@gmail.com]
> Sent: Wednesday, March 16, 2016 8:50 PM
> To: Qureshy, Saima

RE Las Posas Project

> Subject: Las Posas Project
>
> Hi Saima,
>
> Re: Application P15-0068, is this a watered down version of The Highlands
project? Or just a portion of
it? Applicant appears as ColRich, but who is that? Is Mr. Kubba involved?
>
> Thank you,
> Bruce

From: Qureshy, Saima
To: "Nancy Hines"
Subject: RE: Planning Dept. San Marcos
Date: Tuesday, April 26, 2016 3:56:00 PM

Ms. Hines – Thank you for your email regarding the proposed 89 unit subdivision/P15-0068.

Please note that the City will be evaluating the proposed project for any project related impacts pursuant to California Environmental Quality Act. Most of your questions, traffic, visual impacts, schools, trails and water quality will be part of that analysis. You will be receiving additional notice from the City when the environmental analysis is about to commence and also when it is concluded.

Please also note that your comment is included in the public record for the project.

Sincerely,

Saima Qureshy, AICP
Principal Planner
City of San Marcos
760-744-1050 ext. 3232



From: Nancy Hines [mailto:nrhines@gmail.com]
Sent: Sunday, April 24, 2016 3:49 PM
To: Qureshy, Saima
Subject: Planning Dept. San Marcos

As a home owner in Santa Fe Hills I have several concerns and objections regarding P15-0068

Number one,

I request a traffic flow study on the corner of Via Barquero and Borden Road.

That corner would need a traffic light if any new and increased traffic occurs there.

Number two.

What will happen to the hiking/horse trails?

Number three.

Is there a moratorium on building on hill tops in San Marcos?

Number four.

As a homeowner for 16 years and an individual who has paid over \$80,000 in county and city taxes (one of the very highest home tax basis levied for any subdivision in San Marcos), you can well understand my concern about the affects on the future value if my

property with such a dense building area allowed.

Number five.

Can our schools support such growth without parents and school authorities objecting with good cause?

Number six.

Can we afford the run off? Can San Marcos afford the water?

Regards, Nancy Hines

763 Via Barquero

San Marcos, CA

[nrhines@gmail](mailto:nrhines@gmail.com)

com

From: [Dan Silver](#)
To: [Qureshy, Saima](#)
Subject: NOAP15-0068, ColRich/Murai
Date: Wednesday, June 29, 2016 12:46:13 PM

Gentlepersons:

Please place Endangered Habitats League on all mailing and distribution lists for this project, including CEQA documents and public hearings. We request that this project conform to the Multiple Habitat Conservation Plan (MHCP).

Sincerely,
Dan Silver

Dan Silver, Executive Director
Endangered Habitats League
8424 Santa Monica Blvd., Suite A 592
Los Angeles, CA 90069-4267

213-804-2750
dsilverla@me.com
www.ehleague.org

From: Ilkov, Kris
To: Qureshy, Saima
Subject: P15-0068
Date: Thursday, March 17, 2016 10:53:33 AM
Attachments: image001.png

To Whom it May Concern:

I've been a resident at 1557 Loma Alta in San Marcos since 2004 and I am writing to you as a concerned citizen with the planned project development. I believe it is the wrong development for the community and its inhabitants as it would degrade the quality of life and deplete the natural beauty, clean air and peacefulness of the existing space. Too often developers are focused on the investment aspect of the deal, returns and profits and they do not care about the environmental impact, quality of life, traffic congestions, pollution and the overall viability of their profit schemes. It is wrong for the City of San Marcos to support this development.

Sincerely,

Kristian Ilkov

Managing Director | Senior Vice President | Regional Manager San Diego National Banking Office
T: (858) 352-0004 C: (619) 507-4664 F: (858) 457-1757 | kris.ilkov@bankofthewest.com
4180 La Jolla Village Dr. Suite 405 | La Jolla, CA 92037



Visit us online at www.bankofthewest.com

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From: jillcene@aol.com
Sent: Monday, March 21, 2016 5:41 PM
To: Qureshy, Saima; jillcene@aol.com
Subject: Re: P15-00068, Please deny this application for 89 more houses off Las Posas Road

Thank you for your response to my email. I'd like to add these two concerns:

- 1) I'm concerned about fire safety in the canyon where the P15-00068 houses will be built. It's a high risk fire area, and with only one road in/out of the proposed development for 89 houses, people could get trapped trying to escape a brush fire, or the Fire Department would have difficulty accessing a house fire with only one road leading in.
- 2) The wildlife in the canyon would be jeopardized by building any houses in the proposed development area. There are many mammals, birds, even reptiles, that use the pond as a watering hole, and the marshy area and stream canyon provide shelter for these animals. Please let Nature keep this refuge as it is currently.

Thank you again, Jillcene Bachman
 San Marcos Resident
 1372 Corte Bagalso
 San Marcos, CA 92069
 (858) 761-5981
jillcene@aol.com

-----Original Message-----

From: Qureshy, Saima <SQureshy@san-marcos.net>
 To: jillcene <jillcene@aol.com>
 Sent: Mon, Mar 21, 2016 2:16 pm
 Subject: RE: P15-00068, Please deny this application for 89 more houses off Las Posas Road

Thank you for your email related to P15-0068/Murai Project. Please note that your comments will be included in the record for this project and will be forwarded to the decision makers - Planning Commission/City Council. Your comments will also be considered during the project analysis.

Please let me know if I can answer any specific questions you have.

Sincerely,
 Saima Qureshy, AICP

From: jillcene@aol.com [jillcene@aol.com]
 Sent: Friday, March 18, 2016 8:58 PM
 To: Qureshy, Saima; jillcene@aol.com
 Subject: P15-00068, Please deny this application for 89 more houses off Las Posas Road

Hello, Principal Planner: I am a resident of San Marcos living on Corte Bagalso. I'm writing to request that the proposed application number P15-0068, for a housing subdivision consisting of 89 houses be denied.

That many houses would equate to an estimated minimum of 356 car trips per day on the Northern end of Las Posas Road. This road is already too busy! The extra added noise and air pollution, plus the increased danger to pedestrians, bicyclists, and animals with this many more cars traveling back and forth on Las Posas Road would be unhealthy for all current residents in the area.

The General Plan has this area to be preserved as open space and/or parkland. And I believe the General Plan also stated that housing density should be 1 house per 10 acres if it ever were to be developed. I am strongly opposed to P15-0068 and I urge you to deny the application and prohibit the General Plan from being changed.

Sincerely,
 Jillcene Bachman
 1372 Corte Bagalso
 San Marcos, CA 92060
jillcene@aol.com <<mailto:jillcene@aol.com>>
 (858) 761-5981

PC AGENDA ITEM # 3

From: rob muellner [rob.muellner@gmail.com]
Sent: Saturday, March 19, 2016 7:48 PM
To: Qureshy, Saima
Subject: Re: P15-0068 - Notice of Application - received in mail

Awesome!!! Thanks for the information!!! I was wondering if you know the the project number for the highlands project as well? I'd like to check out the plans for that project as well if possible!!!

Once again, thanks for your help!!!

Rob Muellner

On Friday, March 18, 2016, Qureshy, Saima <SQureshy@san-marcos.net> wrote:

Mr. Muellner – The Notice of Application you received pertains to the project called “Murai Project” or P15-0068. It is not the Highlands project. It seems from your email that you misunderstood the two projects to be the same.

This project/P15-0068, is currently under review by the City and is deemed “incomplete”, which essentially means that the City is evaluating if we have all the information needed to review the project and all of its aspects. Since the project is in early stages of review, it does not have any construction drawings submitted. We do have the tentative map, landscaping and architectural plans submitted by the applicant. If you wish to review those and the application, you can fill out a Public Records Request Form and we will pull the files for your review at the counter.

Thank you.

Saima Qureshy, AICP
Principal Planner
City of San Marcos
760-744-1050 ext. 3232



From: rob muellner [mailto:rob.muellner@gmail.com]
Sent: Friday, March 18, 2016 1:53 PM
To: Qureshy, Saima
Subject: P15-0068 - Notice of Application - received in mail

Hey Saima,

My wife and I moved into the neighborhood a little over a year ago. We have been receiving a few of these notices however didn't put much thought into them since it appeared they were still going thru the EIR process.

It looks like things are going fairly well with the project and the typical notices are starting to be sent!!!

Is there any access to the complete set of construction documents as stated in the attached notice? I just wanted to review the drawings to understand the impacts of our house.

Thanks,

Rob Muellner

PC AGENDA ITEM # 3

858.353.7523

rob.muellner@gmail.com

PC AGENDA ITEM # 3

From: Qureshy, Saima
To: "Kevin Mecum"
Subject: RE: Bieri / Murai property
Date: Thursday, May 19, 2016 7:57:00 AM

Mr. Mecum – I will send you all the notices.. Please confirm if you received the Notice of Application for this project from us?

Saima Qureshy, AICP
Principal Planner
City of San Marcos
760-744-1050 ext. 3232



From: Kevin Mecum [mailto:kevin.mecum@gmail.com]
Sent: Wednesday, May 18, 2016 8:55 PM
To: Qureshy, Saima
Subject: Bieri / Murai property

Please keep me up to date with any notices, workshops, hearings concerning this project.

NOP P15-0068 - GPA 15-005; SP15-009; TSM15-002; CUP15-008 ColRich/Murai

Thank you!

KEVIN MECUM

From: Qureshy, Saima
To: "ClarkeMH@aol.com"
Subject: RE: NOAP15-0068, ColRich/Murai
Date: Wednesday, June 29, 2016 8:03:00 AM

Hello Ms. Clarke –

Thank you for your email on Murai project. A development proposal has been submitted to the City on this property. The most recent re-submittal was on June 16, 2016. The project is currently under review by the City. We also anticipate retaining an environmental consultant in the coming month to initiate the CEQA analysis/environmental review process on this proposal.

Could you please send me your mailing address if you wish to receive future notices related to this project.

If you wish to review the submitted project, you would have to fill out the public records request form and our City Clerk's Department will make the project information available for your review at the City hall.

Please let me know of any follow-up questions.

Best Regards,

Saima Qureshy, AICP
Principal Planner
City of San Marcos
760-744-1050 ext. 3232



From: ClarkeMH@aol.com [mailto:ClarkeMH@aol.com]
Sent: Tuesday, June 28, 2016 11:55 AM
To: Qureshy, Saima
Cc: gcourser@hotmail.com; dandd2@peoplepc.com; dsilverla@me.com; beckehl@cox.net; Janet_Stuckrath@fws.gov; David_Zoutendyk@fws.gov; david_.mayer@wildlife.ca.gov; gail.sevrens@wildlife.ca.gov; richard.j.vansant@usace.army.mil; slfarrell@cox.net
Subject: NOAP15-0068, ColRich/Murai

Hello Saima,

I am the Co-Chair of the Sierra Club - San Diego Chapter's Multiple Habitat Conservation Plan (MHCP) Task Force. Our Task Force has been involved in the development of the MHCP since the

mid-1990s. We are very familiar with the City of San Marcos' draft MHCP Subarea Plan. In that plan, the Murai property (now owned by Bieri, I understand) is shown as part of the Northern Focused Planning Area. As such, we expect that development will be minimized on that property, and any development will be planned to minimize impacts to Agua Hedionda Creek, which runs through the property, and to the sensitive environmental resources on the property, including wetlands vegetation and coastal sage scrub.

I am aware that a development proposal was submitted in March 2016 to the City of San Marcos by ColRich/Murai. Can you tell me what the status of that proposal is at this time?

I would appreciate receiving any documents regarding that proposal that are available to the public. Also, please put me on your mailing list and notification lists for any public hearings, documents, or other notices to the public regarding this project.

Thank you very much for your attention to this request. Please contact me at 760-453-2311 or by e-mail at clarkemh@aol.com if you have any questions.

Sincerely,

Mary H. Clarke
Co-Chair, North County MHCP/MSCP Task Force, Sierra Club, San Diego Chapter

From: Qureshy, Saima
To: "Keith Markegard"
Cc: Pedersen, Norman
Subject: RE: Notice of Application Questions
Date: Wednesday, April 20, 2016 8:21:00 AM
Attachments: [image004.png](#)
[image005.png](#)

Mr. Markegard –

Thank you for your email related to the Notice of Application for Murai Project.

The Notice of Application you received is for a project proposed by Colrich for 89 residential units. Public hearings for the project are not scheduled at this time. This project is currently deemed "incomplete" by the City. The applicant will be re-submitting the application materials for the City's review. Please note that you will receive additional notices from the City when public hearings are scheduled for this project in the future.

There is another project called "Highlands" which is a proposal for 189 units proposed by Farouk Kubba. I am copying Norman Pederson in this email who is managing that project. If you have any other question about Highlands project, please feel free to email Mr. Pederson directly.

I am currently employed by the City of San Marcos.

I used to work for the City of Dana Point as their Senior Planner.

Regards,

Saima Qureshy, AICP
Principal Planner
City of San Marcos
760-744-1050 ext. 3232



From: Keith Markegard [mailto:keith@veritylaw.net]
Sent: Tuesday, April 19, 2016 9:33 PM
To: Qureshy, Saima
Subject: Notice of Application Questions

Ms. Qureshy,

Hello, my name is Keith Markegard and I am a resident of Santa Fe Hills. I am in receipt of, The Notice of Application of Request for the approval of a General Plan Amendment, Specific Plan, Tentative Subdivision Map, Grading Variance, Conditional Use Permit and Site Development Plan for the proposed development to allow eighty-nine (89) homes to be built by Colrich Company, an Investment Builder.

My first question: Is Colrich making plans to develop 89 or 189 dwellings? The Notice mailed to me dated March 14th, 2016 stated that Colrich, an Investment Builder wants to build 89 dwellings. However the posting located at the Cul-de-Sac of Los Posas states that 189 homes are being built.

My second question is when and where are public hearings going to be held?

What is the deadline for submitting materials to the City for this project?

Have you been contracted by either the developer or the City to be the principal planner?

Are you still the senior planner for the City of Dana Point?

Last year a notice of application was mailed to potentially affected residents in San Marcos/Santa Fe Hills for another development proposed by Farouk Kubba. Is that development still being considered or has it been tabled?

I appreciate your time.

Kind Regards,

Keith C. Markegard

Verity Legal Recruiters Inc.

Main: 760-730-1466

Cell: 760-566-5056

Fax: 760-913-3069

keith@veritylaw.com

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legionem sum quia multi sumus

From: Qureshy, Saima
To: ["Cheryl Johnson"](#)
Cc: [Michael Johnson](#)
Subject: RE: Opposed to New Murai Development!
Date: Wednesday, June 08, 2016 8:08:00 AM

Ms. Johnson – Thank you for your email. Please note that your comment is included in the public record. Could you also send me your mailing address so I could include that in our list to send future public notices.

Thank you.

Saima Qureshy, AICP
Principal Planner
City of San Marcos
760-744-1050 ext. 3232



From: Cheryl Johnson [mailto:cj@industrialstrengthtv.com]
Sent: Tuesday, June 07, 2016 6:47 PM
To: Qureshy, Saima
Cc: Michael Johnson
Subject: Opposed to New Murai Development!

Dear Saima,

Thank you for your time today! It is greatly appreciated. I am writing so you will have my contact information (see signature below). I wish to be informed of all public hearings as well as any other pertinent information, with regard to the new Murai development. As I stated on the phone, I am greatly disappointed that this is even being considered, especially since you have already green-lighted the Highlands, a development that will dramatically reduce our quality of life and destroy so much wildlife and already endangered chaparral lands.

Thank you for making sure I, a resident of Santa Fe Hills, and a tax payer, am informed of all stages of this proposed development.

Best regards,

Cheryl

Cheryl Johnson
cj@industrialstrengthtv.com
President, Moving Pictures, Inc.
760-310-9379

From: Sandra Farrell
To: Qureshy, Saima
Cc: kevin.mecum@gmail.com
Subject: RE: NOP P15-0068 (GPA 15-005; SP15-009; TSM15-002; CUP15-008...CoLRich/Murai
Date: Tuesday, May 24, 2016 11:53:08 AM
Attachments: [San Marcos Murai Property response letter.pdf](#)
[RE FW Murai illegal grading.txt](#)
[9-29-04 impact mitigation Activities.txt](#)
[bio study.jpg](#)

Hi Saima,

Attached is the map from the report showing the location of the illegal grading that occurred on the Murai site in 2004. Below is a description from someone who witnessed it and lived adjacent to the road used to take the tractor to do the illegal grading. Since the City of San Marcos, the fire department, and San Diego County Water Authority are the only ones that had keys to the gate used to access the site (gate to SDWA right-of-way, west of the existing terminus of Las Posas Road) the question is what agency gave the keys to Beri's employee, Tom McMurray, and allowed the illegal grading to occur? Please include this communication and attachments in the project file and consider them part of the public record.

Thank you very much.

Sandra Farrell

-----Original Message-----

From: babev@cox.net [mailto:babev@cox.net]
Sent: Tuesday, March 09, 2004 10:09 PM
To: sfarrell
Subject: Re: neighbor across the valley

Hi Sandra,
Yes, there has been grading done just west of the dirt road that leads from my house to yours. We saw it occur and was wondering what it was for. The gate was open when the tractor was delivered to a gentleman who had parked his truck just in front of the gate then hopped on the tractor to that area he graded. We didn't think much of it because the gate was open and assumed it was part of the regular construction crew that's been working around here. Next time, I'll make notes and take down license numbers.

Do you know who and why they did it or what it's for?
Babe

=====

From: "sfarrell" <sfarrell@utm.net>
Date: 2004/03/09 Tue PM 11:12:14 EST
To: <babev@cox.net>
Subject: neighbor across the valley

GlacierHi Babe,
We notice there has been some grading (other than the road) that is visible from your house. It is just north in a patch of sage brush. People have reported the grading took place about three weeks ago. One person said it occurred over the weekend. It was done illegally without approvals from the City. Did either you or your neighbors notice anything? Let me know.

Hope all is well and you are preparing for a wonderful summer. The last few days have been really great--almost summer.
Sandra Farrell

1900 Esplendido Ave

-----Original Message-----

From: Qureshy, Saima [mailto:SQureshy@san-marcos.net]
Sent: Monday, March 21, 2016 2:33 PM
To: Sandra Farrell
Subject: RE: NOP P15-0068 (GPA 15-005; SP15-009; TSM15-002; CUP15-008...ColRich/Murai

Ms. Farrell,

Thank you for your email regarding P15-0068/Murai Project.

I would like to clarify that the notice you received is not NOP/Notice of Preparation, but is NOA/Notice of Application. This notice was sent out to inform you and your neighbors that this application is submitted to the City. The application is submitted for a General Plan Amendment, Specific Plan, Tentative Subdivision Map, Conditional Use Permit, Grading Variance, and Site Development Permit.

It is deemed "incomplete" by the City at this time and we are currently reviewing the application's re-submittal. Once the application is deemed "Complete" the City will then initiate the CEQA review process before going forward to the Planning Commission. We anticipate public workshops/ public meetings on this project with the Community before Planning Commission meetings.

Any impacts to biological resources will be also be part of the project analysis pursuant to CEQA. The City will conduct a detailed and thorough analysis on this topic as part of the project review.

Please feel free to send me any other comments on this project.

Sincerely,
Saima Qureshy, AICP

From: Sandra Farrell [slfarrell@cox.net]
Sent: Friday, March 18, 2016 8:46 AM
To: Qureshy, Saima
Cc: ClarkeMH@aol.com

Subject: NOP P15-0068 (GPA 15-005; SP15-009; TSM15-002;
CUP15-008...ColRich/Murai

Dear Mr. Qureshy,

I received the NOP for P15-0068 .., formerly called the Murai property. I appreciate you sending out notices and would like to know what documents have been submitted to the City at this time. I would also like to know what the process will be before this proposal goes to the Planning Commission. Finally, I would like to know if either the City or applicant has met with the Wildlife Agencies and how the development bubbles have changed to accommodate the Wildlife Agencies past recommendations.

During the San Marcos General Plan update, due to environmental and topographic site constraints I recommended that the area be limited to a maximum of 60 dwelling units. Mr. Bieri asked that he be allowed to see if 89 dwelling units was feasible. Attached is a copy of my presentation to the City along with other documents related to this site.

As you may be aware, if you speak with Jerry Backoff, there is a study on file created by Helix Environmental just prior to the Murai family selling the property to Steve Bieri. This study highlights the resources on site. If you no longer have a copy I would like to make a copy and submit it as part of public record. I would like to meet with you regarding siting of the project and options. If the applicant needs 89 dwelling units I would recommend he purchase the property adjoining his on the north-west side. This would help move some of the development footprint to the west to aid wildlife movement. It would also provide a secondary egress via Esplendido Ave in the event of a wildfire.

I would also like to know how the past grading violations were rectified. I've attached documents relating to that activity.

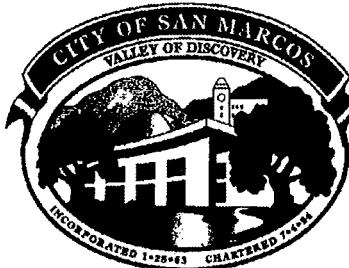
Thank you very much for your time.

Sincerely

Sandra

Sandra Farrell
1900 Esplendido Ave
Vista, CA 92084

760-415-3349



1 Civic Center Drive
San Marcos, CA 92069-2918

Telephone
(760)744-1050

October 20, 2004

**VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED
and VIA FAX 760-471-4882**

Rancho Santalina, L.P.
c/o Steve Bieri & Tom McMurray
P.O. Box 261109
San Diego, CA 92196-1109

RE: Murai Property – Grading Violation

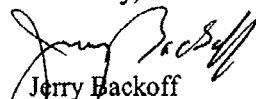
Dear Mr. Bieri:

Following our July 27, 2004 meeting with the agencies, you had committed to prepare a scope of work for a revegetation plan and schedule to prepare and implement said plan. To date, nothing has been submitted to the City or the agencies. Since October 4, 2004 my Secretary has called your office six times and only talked to you once when you indicated you were out 2-3 weeks and would call back before the end of the day, which did not occur. You are hereby notified to submit the above scope of work and implementation schedule to the City and all regulatory agencies at our field meeting **within 10 days of receipt of this letter**.

More critical, now that we are in the rainy season, you still have not provided erosion control around the illegally graded areas, which you indicated you would do right after you received the March 5, 2004 "Notice of Violation." In the City's June 14, 2004 letter to you, it was indicated again that erosion control had not been addressed. Previously the City has given you the name of a firm that does this type of work. Downstream Services in San Diego is another company that does this type of work. As such, this is the final notice to install erosion control **within three days of receipt of this letter**.

If the above final deadlines are not met, than the City will pursue this issue in court. Additionally, as stated in the City's June 14, 2004 letter, the City will not accept any development application for this property until the above items, as well as all corrective actions, are accomplished.

Sincerely,


Jerry Backoff
Planning Division Director

c: Tom McMurray
Janet Struckrath, USFWS
Nancy Frost, DF&G
Chris Means, RWQCB
Jeannette Baker, USACE
Rick Gittings
Helen Peak
Charlie Schaffer
Mike Mercereau
Gena Franco

LEGEND

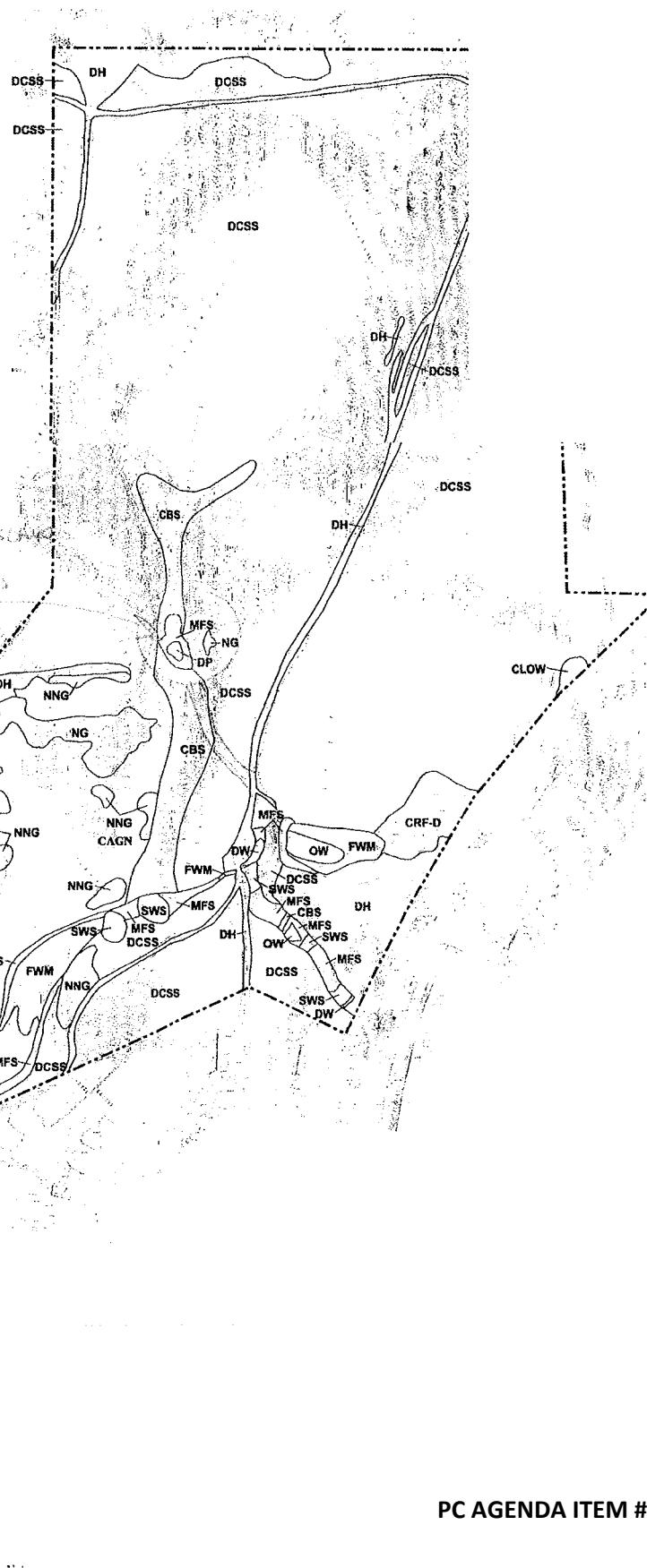
Vegetation

FWM	Freshwater Marsh
SWS	Southern Willow Scrub
MFS	Mule Fat Scrub
CRF-D	Cottonwood Riparian Forest - Disturbed
OW	Open Water
SL	Shoreline
DP	Dry Pond
DW	Disturbed Wetland
DCSS	Diegan Coastal Sage Scrub
CLOW	Coast Live Oak Woodland
NG	Native Grassland
NG-D	Native Grassland - Disturbed
CBS	Coyote Bush Scrub
NNG	Non-native Grassland
EW	Eucalyptus Woodland
DH	Disturbed Habitat
DEV	Developed

Sensitive Resources

CAGN	Coastal California Gnatcatcher* (<i>Poliopita californica californica</i>)
Hv	Graceful tarplant (<i>Holacarpha virgata</i>)

* Gnatcatcher observed August 3, 2001.



9-29-04 impact mitigation Activities

From: Christopher Means [meanc@rb9.swrcb.ca.gov]
Sent: Wednesday, September 29, 2004 10:45 AM
To: JBackoff@ci.san-marcos.ca.us
Cc: ClarkeMH@aol.com; tspear@dfg.ca.gov; janet_stuckrath@r1.fws.gov;
rsmith@spl.usace.army.mil; tdean@spl.usace.army.mil; sfarrell@utm.net
Subject: Update on Murai Property impact mitigation Activities

Mr. Backoff,

It has been quite some time since our meeting at the Murai Property, and to date I have received no update on the status of the actions the property owner agreed to take. These actions included:

1. Identify and quantify the amount of impact and disturbance from the unauthorized clearing from the original (March 3, 2003 Helix Report) biological delineation.
2. Based on the above prepare a Restoration Plan for the disturbed areas with 5 year success criteria as well as put together a performance schedule to implement the restoration plan. The Restoration Plan would be reviewed by the City and all of the above agencies.
3. provide an anticipated time frame to complete the above tasks.

Please provide an update on the status of the above activities at your earliest convenience.

Respectfully,

Christopher Means
Environmental Scientist
San Diego Regional Water Quality Control Board
Phone: (858) 637-5581
Fax: (858) 571-6972
e-mail: meanc@rb9.swrcb.ca.gov

RE FW Murai illegal grading

From: Christopher Means [CMeans@waterboards.ca.gov]
Sent: Friday, October 22, 2004 11:30 AM
To: sfarrell@utm.net
Subject: RE: FW: Murai illegal grading

Sandra,

It was my understanding from the meeting that the property owner would compare site conditions that exist today with the original delineation done by Helix in the Biological Resources report, to determine the exact extent of impacts from the illegal grading, and use that as basis for determining what needs to be mitigated for.

It is obvious that they have not done the work yet, so any additional impacts to resources on site as a result of the latest storm would show up when they do this assessment, and will need to be addressed to resolve this matter.

If the property owner does not want to do the work he promised willingly to do, then the Regional Board will take the necessary steps to ensure that the work is done.

Respectfully,

Christopher Means
Environmental Scientist
San Diego Regional Water Quality Control Board
Phone: (858) 637-5581
Fax: (858) 571-6972
e-mail: cmeans@waterboards.ca.gov

>>> <sfarrell@utm.net> 10/22/04 11:21AM >>>

Thank you Chris. The recent heavy rains on these areas may have impacted Agua Hedionda Creek beyond what was documented in your all agency meeting on the site. Can an assess be done so an accurate mitigation and resotation can be created?

Sandra

-----Original Message-----

From: Christopher Means [mailto:CMeans@waterboards.ca.gov]
Sent: Friday, October 22, 2004 9:26 AM
To: sfarrell@utm.net
Subject: Re: FW: Murai illegal grading

Hi Sandra,

I wanted to update you on the City of San Marcos Response to the Murai property. It seems that since our meeting with the property owner the owner has been "incommunicado" with the City, despite several attempts to contact him. The City has sent the property owners the attached letter giving them definite time deadlines to get the work done, before pursuing legal remedies.

I will update you again as soon as I receive any more information.

Respectfully,

Christopher Means
Environmental Scientist
San Diego Regional Water Quality Control Board
Page 1

RE FW Murai illegal grading

Phone: (858) 637-5581
Fax: (858) 571-6972
e-mail: cmeans@waterboards.ca.gov

>>> "sfarrell" <sfarrell@utm.net> 09/28/04 10:11PM >>>

Hello Ms. Spear and Mr. Means,

I was wondering if the City of San Marcos has provided the governmental agencies with a status report on the illegal clearing and grading that took place last February on the Murai property. I have received reports that the site is still in a degraded state and Mr. Backoff has not responded to my last message. I would appreciate an update if there has been any progress on this issue.

Thank you very much.

Sandra Farrell
Friends of Hedionda Creek

-----Original Message-----

From: sfarrell [mailto:sfarrell@utm.net]
Sent: Sunday, September 12, 2004 5:40 PM
To: Backoff, Jerry
Cc: Terry Dean; Robert Smith; tspear@dfg.ca.gov; Mary Clarke; Chris Means; Janet Stuckrath
Subject: RE: Murai illegal grading

Dear Mr. Backoff,

I would like to find out the status on the items you listed in your previous e-mail dated July 31, 2004 regarding the illegal grading on the Murai property. Have you determined the impacts and what is the target date when the violations will be corrected? Who is the biologist working on assessing the impact and disturbance? I would like to review the Restoration Plan when it is complete. I would also like to review the Mitigation and Monitoring plan for the Fieldstone project that included Mitigation within the Murai property.

Please let me know when I can review these documents.

Thank you very much.

Sincerely,

Sandra Farrell
Friends of Hedionda Creek

-----Original Message-----

From: Backoff, Jerry [mailto:JBackoff@ci.san-marcos.ca.us]
Sent: Saturday, July 31, 2004 2:12 PM
To: 'sfarrell@utm.net'
Subject: Murai illegal grading

Ms. Farrell,

This is to update you with regards to the Murai property. On Tuesday, July
Page 2

RE FW Murai illegal grading
27, 2004 the City met with representatives from the Army Corps. of Engineers, US Fish & Wildlife Service, State Fish & Game, and the San Diego Regional Water Quality Control Board and the property owner.

The intent of the meeting was to identify the areas of impact and decide on a course of action to follow. As a result of our two hour meeting in the field the property owner was required to do the following:

1. Identify and quantify the amount of impact and disturbance from the unauthorized clearing from the original (March 3, 2003 Helix Report) biological delineation.

2. Based on the above prepare a Restoration Plan for the disturbed areas with 5 year success criteria as well as put together a performance schedule to implement the restoration plan. The Restoration Plan will be reviewed by the City and all of the above agencies.

The City asked the property owner to provide an anticipated time frame to complete the above tasks once they talk to their biologist. I will keep you informed on the status of the above remediation actions as they develop.

Thanks again for your interest and concern.

Jerry Backoff
Planning Division Director

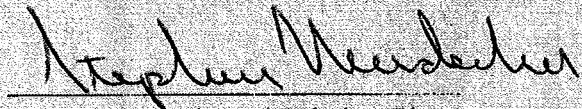
MURAI PROPERTY

BIOLOGICAL DUE DILIGENCE ASSESSMENT

March 3, 2003

Prepared by:

HELIX ENVIRONMENTAL PLANNING, INC.
8100 La Mesa Boulevard, Suite 150
La Mesa, California 91941-6476



Stephen Neudecker, Ph.D.
Certified Senior Ecologist
Group Manager, Regulatory Compliance

Murai Property
Biological Due Diligence Assessment

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1.0 INTRODUCTION

HELIX Environmental Planning, Inc. (HELIX) has conducted an above-ground, biological due diligence assessment of the approximately 89-acre Murai property located north of State Route 78 and west of the present terminus of Las Posas Road in San Marcos, California (Figures 1 through 3).

This report is based on the information and material provided by a potential purchaser, on HELIX's previous surveys of the property and our involvement with previous due diligence efforts. HELIX also has reviewed other sources of information for this site to ensure accuracy and consistency with previous efforts. Additional sources included information compiled as part of the City of San Marcos' (City's) Draft Natural Community Conservation Plan (Draft Subarea Plan). HELIX also has contacted personnel from various federal, state and local resource agencies, and a site meeting with the resource agencies was held on July 22, 2002.

This report describes the vegetation communities and listed/sensitive species found on site and those with potential to occur. It describes the property and possible constraints to its potential development, including its relationship to the City's Draft Subarea Plan, which will become a component of the Multiple Habitat Conservation Program (MHCP). Finally, it describes the potential for U.S. Army Corps of Engineers (Corps) and/or California Department of Fish and Game (CDFG) jurisdiction on site, the potential need for wetland permits and potential listed species issues.

1.1 PROJECT DESCRIPTION/LAND USE

The project site is located north of State Route 78 and west of the present terminus of Las Posas Road (Figures 1 and 2). The entire site currently consists of undeveloped native or disturbed native habitats. Surrounding land uses include low-density residential development to the west and immediate north, residential development to the southeast, and undeveloped native habitat to the northeast and adjacent to the southwest tip of the site (Figure 3). Residential development (named San Marcos Highlands) is planned for the undeveloped area located to the northeast of the project site.

1.2 CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE

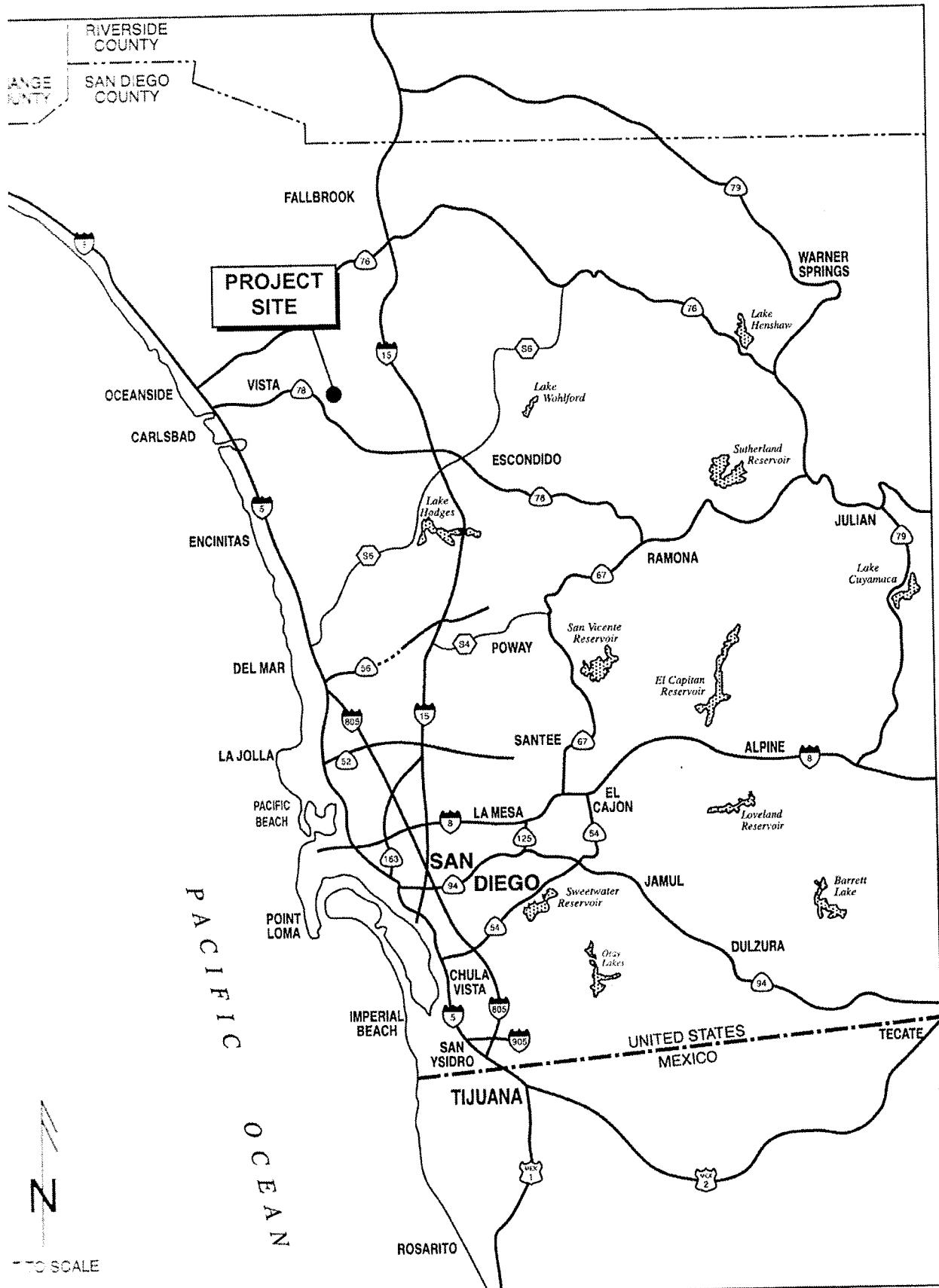
There is currently no proposed project and none has been processed through the California Environmental Quality Act (CEQA) process.

2.0 BIOLOGICAL RESOURCES

2.1 HABITATS

An initial biological constraints survey for the Murai property was conducted by RECON (RECON 1990) for Pacific Land property. A directed search that included three separate surveys for the coastal California gnatcatcher (*Polioptila californica californica*) was also conducted at that time. The 1990 RECON survey was a revision of earlier assessments of the property conducted by Blake-Jackson. Six native vegetation communities were described: Diegan coastal sage scrub, southern mixed chaparral, native grassland, baccharis scrub, freshwater marsh and southern willow scrub. One sensitive plant

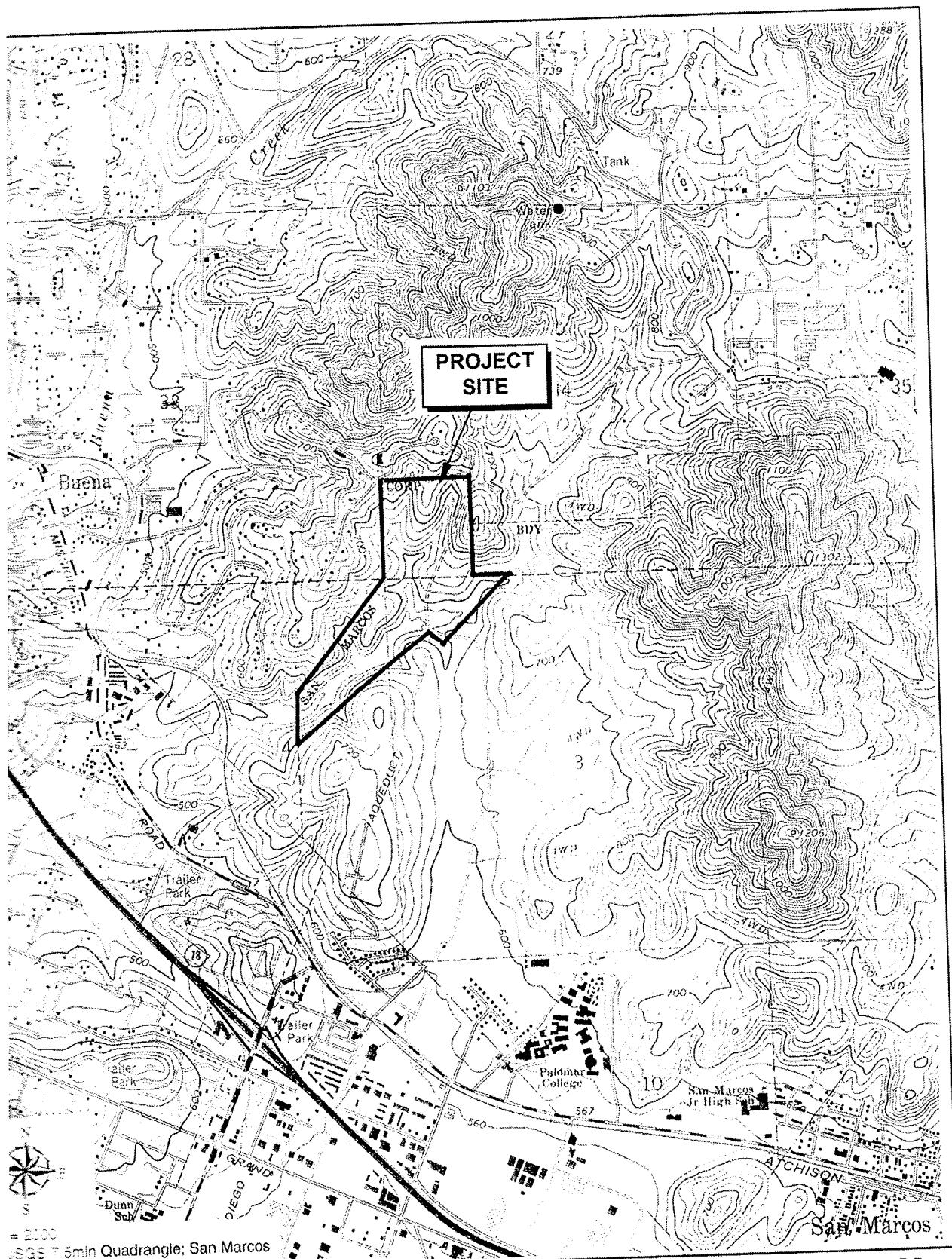
HELIX



Regional Location Map

MURAI PROPERTY

Figure 1



Project Vicinity Map

MURAI PROPERTY

Figure 2

species, ashy spike-moss (*Selaginella cinerascens*), was observed. No federally or state listed wildlife species was observed.

P&D Environmental (2000) also conducted a biological resources survey of the property for EPAC. In that report, four wetland and six upland habitats were described. Although no sensitive wildlife species (other than the ashy spike-moss noted above) was observed on site, a coastal California gnatcatcher was heard vocalizing within the on site coastal sage scrub by a biologist conducting a survey for the adjacent property.

Biological surveys and vegetation mapping of the Murai project site were conducted by HELIX during 2001 and 2002. Vegetation was mapped on August 3, 2001 and updated during site surveys conducted in 2002. A delineation to identify Corps and CDFG jurisdictional areas was conducted on April 26 and May 3 and 5, 2002. Focused surveys included a rare plant survey (May 20 and 21, 2002; HELIX 2002a) and protocol surveys for both the California coastal gnatcatcher (April 16, 23, and May 1, 2002; HELIX 2002b) and least Bell's vireo (*Vireo bellii pusillus*; eight surveys from April 11 through June 24, 2002; HELIX 2002c).

Twelve vegetation communities were observed on site (Figure 4; Table 1). Sensitive vegetation communities are addressed by the MHC, are rare within the region, support sensitive animal or plant species, and/or serve as important wildlife corridors. With the exception of eucalyptus woodland and disturbed habitat, all the vegetation types (freshwater marsh, southern willow scrub, mule fat scrub, disturbed southern cottonwood-willow riparian forest, coast live oak woodland, disturbed wetland, open water, dry pond, shoreline, Diegan coastal sage scrub, coyote bush scrub, native grassland [including disturbed], and non-native grassland) are considered sensitive communities and/or wildlife habitat by the USFWS, CDFG, and the City. Impacts to most if not all of these communities, particularly wetlands, would be a constraint to development.

Wetland vegetation communities are considered sensitive by federal, state, and local agencies. As a subset of wetlands, riparian communities are situated along stream courses and adjacent streambanks. Many bird species are restricted to riparian habitat and are dependent on it for breeding.

2.1.1 Wetland Habitats

On the Murai property, sensitive wetland habitats occur along several large drainages. This riparian area includes the following habitat types: freshwater marsh, southern willow scrub, mule fat scrub, disturbed southern cottonwood-willow riparian forest, coast live oak woodland, disturbed wetland, open water, dry pond and shoreline (Figure 4; Table 1). The on-site aquatic resources and permitting issues are addressed in the Aquatic Resources and Permits section, below.

2.1.2 Upland Habitats

Sensitive upland vegetation communities supported on site include Diegan coastal sage scrub, coyote bush scrub, native grassland (including disturbed) and non-native grassland (Table 1 and Figure 4).

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Table 1
VEGETATION COMMUNITIES

HABITAT TYPE	ACREAGE
Wetland	
Freshwater marsh	1.12
Southern willow scrub	0.47
Mule fat scrub	1.46
Southern cottonwood-willow riparian forest – disturbed	0.73
Coast live oak woodland	0.08
Disturbed wetland	0.04
Open water	1.56
Dry pond	0.03
Shoreline	0.19
Subtotal	5.68
Upland	
Diegan coastal sage scrub	74.49
Coyote bush scrub	2.93
Native grassland	1.48
Native grassland-disturbed	0.24
Non-native grassland	1.07
Eucalyptus woodland	0.06
Disturbed habitat	5.76
Subtotal	86.03
Other	
Developed	0.02
Subtotal	0.02
GRAND TOTAL	91.73

2.2 LISTED AND SENSITIVE SPECIES

One of the most significant concerns of biological due diligence is the potential presence of threatened or endangered species (listed species) that are given special protection under the federal Endangered Species Act (ESA) and the California Endangered Species Act (CESA). Several focused surveys for listed species with a potential to occur on the 89-acre Murai property were conducted between April and August 2002 by HELIX, including a rare plant survey (HELIX 2002a) and protocol surveys for both the coastal California gnatcatcher and least Bell's vireo (HELIX 2002b and 2002c, respectively).

2.2.1 Sensitive Plants

Sensitive species are considered unusual or limited in that they are (1) only found in the San Diego region; (2) a local representative of a species or association of species not otherwise found in the region; or (3) severely depleted within their ranges or in the region. High-interest plants include those listed by the USFWS (1999), CDFG (2003a and b), and the California Native Plant Society (CNPS 2001).

Sensitive Plants Observed

One sensitive plant species, graceful tarplant (*Holocarpha virgata*), was observed on site (Figure 4). It is not federally or state listed, nor is it considered a narrow endemic species by the MHCP. The status codes for the CNPS used below are listed and explained in Appendix A of HELIX 2002d.

Graceful tarplant (*Holocarpha virgata*)

Status: FSC--; CNPS List 4; R-E-D 1-2-3

Status on site: A few individuals of this species were observed in native grassland in the southwestern portion of the site (Figure 4).

No other federally or state listed plant species, MHCP narrow endemic, or CNPS-listed species was observed on site during the rare plant survey conducted in spring 2002. The rare plant survey was conducted in a year with below-average rainfall. As result of the low rainfall during the past winter and spring, it is possible that herbaceous species, which are highly dependent on annual variations in rainfall, may not have sprouted and therefore would not have been detectable during the rare plant survey.

Sensitive Plants with Potential to Occur

Eight other listed/sensitive plant species known from San Marcos (City 2001) have the potential to occur on site. Two of these are federally and state listed species and are considered MHCP narrow endemic. Information for each is briefly provided below.

Thread-leaved brodiaea (*Brodiaea filifolia*)

Status: FT/SE

Status on site: Not observed during the 2002 rare plant survey; however, due to the close proximity of several populations (e.g., the Baldwin Preserve to the south), this species may be present on site but only observable in years with higher rainfall.

San Diego thornmint (*Acanthomintha ilicifolia*)

Status: FT/SE; CNPS List 1B; R-E-D 2-3-2; MHCP Narrow Endemic

Status on site: Not observed during the 2002 rare plant survey. This species is known to occur in the vernal pool area of San Marcos, and could occur in clay lenses in other areas.

San Diego goldenstar (*Muilla clevelandii*)

Status: FSC/--; CNPS List 1B; R-E-D 2-2-2; MHCP Narrow Endemic

Status on site: Not observed during the 2002 rare plant survey. This species is not reported from San Marcos in the Draft Subarea Plan; however, it is reported in other documents to occur in some locations in the City.

Variegated dudleya (*Dudleya variegata*)

Status: --/--; CNPS List 1B; R-E-D 2-2-2; MHCP Narrow Endemic

Status on site: Not observed during the 2002 rare plant survey. This species is not reported from San Marcos in the Draft Subarea Plan.

The other four species with a potential to occur on site are considered sensitive but are not federally or state listed, nor are they considered MHCP narrow endemics. Impacts to these species would be adverse but probably not a constraint to development. These species are San Diego sagewort (*Artemisia palmeri*), San Diego marsh-elder (*Iva hayesiana*), southwestern spiny rush (*Juncus acutus* ssp. *leopoldii*) and ashy spike-moss.

2.2.2 Sensitive Animals

Sensitive Animals Observed

One federally listed threatened animal species, the coastal California gnatcatcher, was detected on site in 2001 (Figure 4). However, this species was not detected during protocol surveys conducted in 2002. Information on the coastal California gnatcatcher is briefly provided below.

Coastal California gnatcatcher (*Polioptila californica californica*)

Status: FT/CSC

Status on site: One coastal California gnatcatcher was heard in Diegan coastal sage scrub in the central portion of the site in 2001 (Figure 4). This species was not present during protocol surveys conducted in 2002. Since similar habitat occurs throughout the site, it is likely this species could occur in other areas on site. Its distribution on the adjacent San Marcos Highlands project also was very limited (one individual along the aqueduct), given the extent of potential habitat.

Sensitive Animals with Potential to Occur

Eighteen sensitive animal species known from San Marcos (City 2001) have the potential to occur on site. None of these species is federally or state listed, nor are they considered narrow endemics by the MHCP. Impacts to these species would be adverse but probably not a constraint to development. These species are the southwestern pond turtle (*Clemmys marmorata pallida*), San Diego horned lizard (*Phrynosoma coronatum blainvilliei*), coastal whiptail (*Cnemidophorus tigris multisquamatus*), northern red-diamond rattlesnake (*Crotalus exsul*), two-striped garter snake (*Thamnophis hammondi*), great blue heron (*Ardea herodias*), green-backed heron (*Butorides striatus*), black-crowned night heron (*Nycticorax nycticorax*), turkey vulture (*Cathartes aura*), Cooper's hawk (*Accipiter cooperii*), sharp-shinned hawk (*Accipiter striatus*), northern harrier (*Circus cyaneus*), white-tailed kite (*Elanus leucurus*), loggerhead shrike (*Lanius ludovicianus*), southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*), Bell's sage sparrow (*Amphispiza belli belli*), grasshopper sparrow (*Ammodramus savannarum*) and yellow warbler (*Dendroica petechia brewsteri*).

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Although potential habitat for the federally listed endangered quino checkerspot butterfly (*Euphydryas editha quino*) is present on site, the butterfly is not expected to occur, and surveys for the species are not required by the USFWS for this area. The nearest, most-recent observation of the species was in 1951 in the City of Vista (Mattoni et al. 1997).

There are still other listed or sensitive species with the potential to occur on site. Impacts to other sensitive species such as orange-throated whiptail (*Cnemidophorus hyperythrus beldingi*) would be adverse but probably not a constraint to development.

Least Bell's vireo (*Vireo bellii pusillus*)

Status: FE/SE

Status: This species was not detected during focused surveys conducted in the spring of 2002. If found to be present in the future, any proposed impact on the least Bell's vireo would be a constraint to development.

Other listed species known to occur in association with riparian habitats include southwestern willow flycatcher (*Empidonax traillii extimus*) and arroyo toad (*Bufo microscaphus californicus*). The southwestern willow flycatcher is not anticipated to occur on site because the riparian habitat does not have the appropriate habitat components. The arroyo toad is known to occur along major river corridors such as portions of the San Luis Rey River and would not be expected along the relatively narrow drainage corridor on site.

2.3 AQUATIC RESOURCES AND PERMITS

Wetland vegetation communities are considered sensitive by federal, state, and local agencies. As a subset of wetlands, riparian communities are situated along stream courses and adjacent streambanks. Many bird species are restricted to riparian habitat and are dependent on it for breeding. Overall, wildlife diversity is normally higher in riparian zones than in surrounding habitats.

A delineation to identify Corps and CDFG jurisdictional areas was conducted by HELIX on April 26 and May 3 and 5, 2002. On the Murai site (Figures 5 and 6), sensitive wetland habitats occur along several large drainages. This riparian area includes the following habitat types: freshwater marsh, southern willow scrub, mule fat scrub, disturbed southern cottonwood-willow riparian forest, coast live oak woodland, disturbed wetland, open water, dry pond, and shoreline. The extent of jurisdictional area on the site is shown in Table 2.

Any effects on aquatic resources would be regulated by the Corps, CDFG and the State Water Quality Resources Control Board (SWQRCB) San Diego Region. A Section 404 permit and Section 401 Water Quality Certification would be required under the federal Clean Water Act for impacts to wetlands and/or non-wetland Waters of the U.S. By limiting the extent of Corps jurisdictional impacts (generally less than 0.5 acre), it may be possible to process a nationwide permit instead of a more involved individual permit. This determination will depend on the extent of the aquatic resources affected by proposed development. Finally, a 1603 Streambed Alteration Agreement with the CDFG would be necessary for impacts to CDFG jurisdiction.

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Table 2
JURISDICTIONAL AREAS

HABITAT TYPE	ACREAGE	
	Corps	CDFG
Wetlands		
Freshwater marsh	1.12	1.12
Southern willow scrub	0.31	0.47
Mule fat scrub	1.46	1.46
Southern cottonwood-willow riparian forest – disturbed	0.53	0.73
Coast live oak woodland	---	0.08
Disturbed wetland	0.04	0.04
Open water	1.56	1.56
Dry pond	0.03	0.03
Shoreline	0.19	0.19
Subtotal	5.24	5.68
Non-wetland Waters of the U.S./Streambed		
Drainages	0.20	0.20
Subtotal	0.20	0.20
GRAND TOTAL	5.44	5.88

2.4 WATER QUALITY

While an analysis of water quality issues has not been conducted as part of HELIX's assessment, it is noted that the California (State) Water Quality Control Board (WQCB) will require a Construction Discharge Permit, a Storm Water Pollution Prevention Plan (SWPP) and a Standard Urban Stormwater Mitigation Plan (SUSUMP) for the project. The potential purchaser should ensure that the appropriate short- and long-term water quality mitigation measures incorporated into the project design, are implemented properly and are acceptable to the City of San Marcos and the State WQCB.

3.0 REGIONAL PLANNING CONTEXT

3.1 CITY OF SAN MARCOS DRAFT SUBAREA PLAN

The major biological objectives of the Draft Subarea Plan are based on the framework Subregional Plan, the MHCP for northwestern San Diego County. The draft MHCP (SANDAG 2000) shows the Murai property as within a Biological Core and Linkage Area (BCLA) and Focused Planning Area (FPA). A BCLA is defined as all large, contiguous areas of habitat, all areas supporting major and critical species populations or habitat areas, and all important functional linkages and movement corridors between them. An FPA is an area within a BCLA where "hard line" (100 percent) conservation and "soft line" (25 to 75 percent) conservation are required. According to the Draft Subarea Plan, the Murai property has a proposed conservation requirement of 50 percent.

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The Draft Subarea Plan was analyzed in the MHCP DEIR/S that went out for public review in December of 2001. The comment period closed in April 2002 and the wildlife agencies were not happy with the proposed plan. A final EIR has not been produced, nor has SANDAG certified the EIR. The City of San Marcos has not yet adopted the Subarea Plan. It is our understanding from our work on other properties in San Marcos that there are still disagreements between the City and the wildlife agencies about certain policies in the Plan and that it is not likely to be adopted in the immediate future. For planning purposes, the timing of future development of the site should consider whether the Plan will be adopted in time to provide coverage for a project. It is anticipated that the Plan will not be adopted within the next two years. If no Subarea Plan is in place at the time a project is ready to proceed, listed species approval would have to come directly from the USFWS and CDFG.

3.2 SAN MARCOS HIGHLANDS

The San Marcos Highlands Specific Plan includes 203 acres located to the east of the Murai property (Figure 7). A specific plan for this property was initially approved in 1990; however, the project was never constructed, and time extensions were exhausted. A new application was submitted and ultimately approved by the City Council in July 2002. This project was controversial and objected to by the resource agencies as evidenced by negative comment letters on the draft EIR submitted by the USFWS, CDFG, and County (David Evans & Associates 2001). The major reason for the objections was that the agencies felt the project did not provide an adequate north-south wildlife corridor along the western edge of the project.

3.3 LAS POSAS ROAD

The existing development to the southeast of the Murai property (believed to be called La Paloma) was required to construct Las Posas Road to the northern extent of their property as a condition of development prior to the project's final phase. The project developer is KB Homes. The planned extension of Las Posas Road to the north, however, would have extended through a large and highly sensitive wetland corridor. The road was realigned to avoid most of its impacts on Waters of the U.S. and a Nationwide Permit was issued by the Corps (Pers. comm. with Robert Revo Smith March 3, 2003). While HELIX has not seen the new alignment of Las Posas Road, we understand that construction is scheduled to begin soon.

3.4 WILDLIFE CORRIDOR

The Draft Subarea Plan (City 2001) recommends that the Murai Specific Plan property provide a north-south linkage with the FPA to the south and County open space to the north. The draft plan states that "project design shall utilize the aqueduct right-of-way to establish a minimum 400-foot wide corridor."

As noted above, the resource agencies have objected to the San Marcos Highlands project because it proposed development within approximately 100 feet of the property line and did not provide an adequate wildlife corridor.

During HELIX's July 22, 2002 site visit, the resource agencies recommended a 1,000 foot corridor, with 500 feet to occur on each property.

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4.0 SENSITIVE HABITAT ISSUES

4.1 HABITATS

4.1.1 Wetland Habitats

Wetlands typically represent a significant constraint to development because of the avoidance policy of most agencies. If avoidance can be demonstrated to be infeasible, impacts can be allowed to occur with mitigation. Wetland impacts must be mitigated "in-kind" and achieve a "no net-loss" of wetland functions and values. Typically, wetlands are mitigated at a 2:1 to 4:1 ratio, depending upon the sensitivity of the impacted resource. Mitigation usually entails a combination of habitat preservation and restoration/creation. For example, mitigation through 1:1 preservation and 1:1 restoration/creation would result in an overall 2:1 mitigation ratio.

The biologically preferred alternative would be to avoid impacts to all jurisdictional wetlands completely. If a feasible project cannot be designed to avoid all wetland areas, then impacts would require mitigation. Mitigation for impacts would likely require a 3:1 ratio for wetlands and a 1:1 ratio for non-wetland streambeds. A minimum 1:1 ratio of creation would be required to ensure no net-loss of habitat functions and values. Given the large extent of wetland habitat, it is recommended that credit for preservation of habitat be pursued as part of the wetland permit negotiations.

4.1.2 Upland Habitats

Table 3 summarizes typical mitigation ratios required for impacts to sensitive upland habitat in San Marcos (City 2001). These are the ratios required by the Draft Subarea Plan and may or may not be utilized by the City prior to adoption of the Plan. The entire Murai property is assumed to occur within the FPA.

Table 3
MITIGATION RATIOS FOR IMPACTS TO
SENSITIVE UPLAND HABITAT TYPES

HABITAT TYPE	MITIGATION RATIO*	
	Inside	Outside
Diegan coastal sage scrub	2:1	1:1
Coyote bush scrub	2:1	1:1
Native grassland	3:1	2:1
Native grassland-disturbed	3:1	2:1
Non-native grassland	0.5:1	None

*Mitigation ratio is based on impacts occurring inside or outside of the MHCP FPA.

4.2 SENSITIVE PLANTS

Graceful tarplant is the only sensitive species observed on the project site. Impacts to this federal special concern species would be adverse but probably not a constraint to development. Of the other eight sensitive species with the potential to occur on site, only the four MHCP narrow endemic species (thread-leaved brodiaea, San Diego thornmint, San Diego goldenstars and dudleya variegata) have the potential to pose a significant constraint to development. The Draft Subarea Plan requires on-site preservation of a high percentage of these four species. Impacts to these species, if present, would be a constraint to development. The MHCP requires conservation of 95 percent of narrow endemic populations in soft line preserves (SANDAG 2000). The occurrence of any of the other species listed as potentially occurring on site would not pose a constraint to development due to their low level of sensitivity.

4.3 SENSITIVE ANIMALS

Development of the Murai property would probably require incidental take permits under Section 7 or 10(a) of the federal Endangered Species Act (ESA) for federally listed species and Section 2081 of the California ESA for state listed species. The presence of the threatened coastal California gnatcatcher on site means that formal consultation with or a direct permit from the USFWS will be required. It is highly recommended that a Section 7 consultation be pursued as part of a 404 permit requirement by the Corps in order to save substantial permit processing time. Regulations require the USFWS to complete a Section 7 within 135 days. A Section 10(a) permit has no regulatory timeframe requirement, can take as long as two years or more to complete, and typically increases mitigation requirements. There is no guarantee, however, that the Corps will agree to request a Section 7 from the USFWS for the gnatcatcher.

The least Bell's vireo was not detected on site and is currently not expected to occur on the project. Additional surveys for this species may be required in the future since the agencies often require that surveys be no more than one year old.

5.0 INDIRECT IMPACTS

Indirect impacts, which consist of the secondary effects of a project, become important because of the location of the site and development in relation to open space. Typically, indirect impacts include the following: brush management, water quality, lighting, noise, barriers (human and pet intrusion), and introduction of invasive species. The magnitude of an indirect impact can be the same as a direct impact; however, the effect usually takes a longer time to become apparent.

5.1 BRUSH MANAGEMENT

The City would likely require a 100-foot brush management zone, unless a shorter distance is approved by the fire marshal. The requirement for a 100-foot brush management zone poses a potentially significant constraint to project development.

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5.2 WATER QUALITY

A potential project constraint may be posed by project runoff. The potential exists for water quality impacts on adjacent sensitive habitat areas due to the release of toxic materials and pesticide/fertilizers in runoff from landscaped areas, private yards, and roads. In order to avoid these impacts, the project must be designed using best management practices to ensure that erosion and water quality impacts to adjacent habitat areas will not occur. Detention basins and other such structures should be incorporated into the project to collect and filter all drainage from site before allowing it to flow into any adjacent Waters of the State. It should be anticipated that post-construction, permanent treatment of all urban runoff would be required prior to release into existing drainages.

5.3 LIGHTING

Lighting of the proposed project may pose a constraint to development. The project should be planned such that all light sources are required to be directed away or shielded from sensitive areas in the form of plant materials, berms or light-shields to avoid this potentially significant indirect impact.

5.4 NOISE

Potential short-term noise effects would be associated with the proposed project during construction and may pose a constraint to development. Construction noise effects would be considered significant if construction noise levels exceed a level of 60 dBA adjacent to species such as the coastal California gnatcatcher, the least Bell's vireo (if present) or nesting raptors. During construction grading, precautions should be taken to avoid interfering with the bird breeding season, including scheduling construction for non-breeding periods whenever possible, monitoring of gnatcatcher habitat and active raptor nests during grading, and use of noise barriers to shield construction equipment noise if gnatcatchers are present. Additional surveys will likely be required to be conducted in the year immediately prior to construction activities.

6.0 PREVIOUS CONCEPTUAL DEVELOPMENT PLAN

HELIX did analyze a previous conceptual development plan that included about 46 acres of development and 44 acres of preserved habitat. It would have qualified for a Nationwide Permit since it affected less than 0.5 acre of Waters of the U.S. The conceptual plan was consistent with the Draft Subarea Plan goal of preserving about 50 percent of the property in natural open space. That Plan preserved the majority of the large riparian corridor in natural open space and provided a substantial north-south corridor through the property as recommended by the Plan. The wildlife agencies reviewed the Plan and had the following recommendations:

1. The wildlife agencies preferred deletion of the development bubble located east of the aqueduct in order to preserve the corridor more effectively.
2. They were pleased to see the preservation of most wetlands and maintenance of the north-south corridor.

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3. They were looking for a 1,000-foot wide wildlife corridor, 500 feet of which would have to occur on the Murai Property.
4. They recommend that the access road from Las Posas to the development bubble be designed to allow wildlife movement to the extent possible. They also recommend, if possible, removing this road entirely and gaining access at the northwest corner of the site.
5. They stated that an endowment would be required to provide for permanent maintenance of the on-site open space.
6. They discouraged development of any facilities in the open space, including trails. If trails were approved, the width should be minimized to 8 feet.
7. They indicated that all brush management must occur outside of the natural open space.

The major challenge in getting that conceptual plan approved was the agencies' desire to increase the north-south corridor to a large width. The location of the brush management zone relative to the open space also must be resolved.

7.0 PERMITTING AND COMPLIANCE COSTS

Based on the previous conceptual mitigation plan, it was anticipated that it would be possible to obtain a Section 404 Nationwide permit from the Corps. A Section 1603 agreement from CDFG also would have also been required, as would a Section 401 Certification and perhaps a Report of Waste Discharge Permit from the Regional WQCB. With regard to endangered species, it anticipated that a Section 7 consultation would be possible as part of the 404 permit process. The 404 permit process and Section 7 consultation are anticipated to require 8 to 10 months to complete, and the two state permits (1603 and 401) would take 30 to 60 days after a certified CEQA document was completed.

Assuming the mitigation ratio for coastal sage scrub would be 2:1, development under the previous conceptual plan would require the purchase of approximately 35 acres of off-site upland habitat as mitigation (about 35 acres is available for on-site mitigation). There are no mitigation banks available, but there are some lands adjacent to the City's FPA that might work as mitigation. If it can be demonstrated that land is not available in the City, another option might be to purchase land in the nearby County core habitat areas. Mitigation land in the County might be available at about \$10,000 per acre.

Based on the previous conceptual plan, the project would have affected about 0.31 acre of jurisdictional Waters of the U.S. There is a limited opportunity for on-site wetland mitigation since there are relatively few disturbed areas. Every attempt should be made to locate wetland mitigation on site. If not feasible, wetland mitigation would have to occur off site. In addition to the mitigation costs, there would need to be an endowment for the on- and off-site mitigation lands to ensure management of these areas in perpetuity. Rough estimated mitigation costs are as follows:

Permitting (including Section 7)	\$ 50,000
Off-site purchase of uplands (35 acres @ \$20,000/acre)	700,000
Wetland Mitigation	100,000
Long-term Management Endowment	<u>200,000</u>
TOTAL	\$1,050,000

8.0 CONCLUSION

The scope of HELIX's analyses is the evaluation of potential above-ground issues related to biological resources that could have a significant effect on your ability to develop the Murai property. There are issues we have not considered (such as cultural, paleontological, hazardous materials, water quality, noise and geology) because they are outside of the scope of our analyses.

HELIX believes there are several constraints to the potential development of the Murai property, including the presence of a listed species, significant aquatic resources, a predominance of Diegan coastal sage scrub habitat, and wildlife corridor and habitat linkage issues. This area is under considerable development pressure, proposed projects typically receive a great deal of public opposition, the Subarea Plan is controversial and not approved, and any proposed project will receive rigorous scrutiny by the wildlife agencies.

The potential purchaser has asked HELIX to give an estimate of the cost of all of those compliance measures. Without a proposed conceptual development plan, that is very difficult to do. However, based on a previous proposed development plan, we estimate them to be in the range of \$1,050,000, as noted above.

If the potential purchaser decides to purchase and develop the Murai property, HELIX is ready and able to assist with all processing, permitting and compliance requirements. We recommend that a rare plant survey be conducted this spring as part of thorough due diligence efforts, given the presence of thread-leaved brodiaea (a highly constraining resource) in the project site vicinity.

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9.0 MATERIALS REVIEWED AND/OR CITED

Acuff, David. 2002. City of San Marcos. Personal communication.

California Department of Fish and Game (CDFG) Natural Diversity Database (CNDDDB). 2003a. *Special Vascular Plants, Bryophytes, and Lichens List*. Biannual publication, Mimeo. www.dfg.ca.gov/whdab/SPPlants.pdf. January. 141 pp.

2003b. *Special Animals*. State of California, The Resources Agency, Wildlife and Habitat Data Analysis Branch. <http://www.dfg.ca.gov/whdab/spanimals.pdf>. January.

California Native Plant Society (CNPS). 2001. *Inventory of Rare and Endangered Plants of California*, 6th edition. Rare Plant Scientific Advisory Committee, David P. Tibor, Convening Editor. CNPS, Sacramento, CA. x + 388pp.

City of San Diego. 1990. Proposed Resource Protection Ordinance Amendments.

City of San Marcos (City). 2001. Draft Subarea Habitat Conservation Plan/Natural Communities Conservation Plan. May.

County of San Diego. 1991. Resource Protection Ordinance. A compilation of Ordinance Nos. 7968, 7739, 7685 and 7631 (New Series). Adopted October 10, 1991.

David Evans & Associates, Inc. 2001. Draft Supplemental Environmental Impact Report No. 90-13 (SCH No. 990781007). San Marcos Highlands Specific Plan.

HELIX. 2002a. Rare Plant Survey Report for the Murai Property. April.

2002b. Protocol Gnatcatcher Survey Report for the Murai Property. June.

2002c. Least Bell's Vireo Survey Report for the Murai Property. August.

2002d. Biological Constraints Report for the Murai Property. August.

Mattoni, Rudi, Gordon F. Pratt, Travis R. Longcore, John F. Emmel, and Jeremiah N. George. 1997. The endangered quino checkerspot butterfly, *Euphydryas editha quino* (Lepidoptera: Nymphalidae). *The Journal of Research on the Lepidoptera* 34 (1-4): 1995.

P&D Environmental. 2000. Biological Resources Survey, Murai Property, San Marcos, California.

RECON. 1990. Biological Constraints Survey for the Proposed Pacific Land Murai Property.

SANDAG. 2000. Public Review Draft Multiple Habitat Conservation Plan (MHCP). November.

Smith, Robert. 2002. U.S. Army Corps of Engineers, Los Angeles Office. Personal communication.

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United States Fish and Wildlife Service (USFWS). 2002. Threatened and Endangered Species System. U.S. Listed Vertebrate Animal Species Report by Taxonomic Group as of July 31. <http://endangered.fws.gov/wildlife.html#Species>

1999. Endangered and Threatened Wildlife and Plants. *Federal Register* 50 CFR Part 17. December 31.

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Biological Due Diligence Assessment for the Murai Property / March 3, 2003

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PC AGENDA ITEM # 3

RE NOP P15-0068 (GPA 15-005; SP15-009; TSM15-002; CUP15-008...ColRichMurai
From: Qureshy, Saima
Sent: Monday, March 21, 2016 2:33 PM
To: Sandra Farrell
Subject: RE: NOP P15-0068 (GPA 15-005; SP15-009; TSM15-002; CUP15-008...ColRich/Murai

Ms. Farrell,

Thank you for your email regarding P15-0068/Murai Project.

I would like to clarify that the notice you received is not NOP/Notice of Preparation, but is NOA/Notice of Application. This notice was sent out to inform you and your neighbors that this application is submitted to the City. The application is submitted for a General Plan Amendment, Specific Plan, Tentative Subdivision Map, Conditional Use Permit, Grading Variance, and Site Development Permit.

It is deemed "incomplete" by the City at this time and we are currently reviewing the application's re-submittal. Once the application is deemed "Complete" the City will then initiate the CEQA review process before going forward to the Planning Commission. We anticipate public workshops/public meetings on this project with the Community before Planning Commission meetings.

Any impacts to biological resources will be also be part of the project analysis pursuant to CEQA. The City will conduct a detailed and thorough analysis on this topic as part of the project review.

Please feel free to send me any other comments on this project.

Sincerely,
Saima Qureshy, AICP

From: Sandra Farrell [s1farrell@cox.net]
Sent: Friday, March 18, 2016 8:46 AM
To: Qureshy, Saima
Cc: ClarkeMH@aol.com
Subject: NOP P15-0068 (GPA 15-005; SP15-009; TSM15-002; CUP15-008...ColRich/Murai

Dear Mr. Qureshy,

I received the NOP for P15-0068, formerly called the Murai property. I appreciate you sending out notices and would like to know what documents have been submitted to the City at this time. I would also like to know what the process will be before this proposal goes to the Planning Commission. Finally, I would like to know if either the City or applicant has met with the Wildlife Agencies and how the development bubbles have changed to accommodate the Wildlife Agencies past recommendations.

During the San Marcos General Plan update, due to environmental and topographic site constraints I recommended that the area be limited to a maximum of 60 dwelling units. Mr. Bieri asked that he be allowed to see if 89 dwelling units was feasible. Attached is a copy of my presentation to the City along with other documents related to this site.

RE NOP P15-0068 (GPA 15-005; SP15-009; TSM15-002; CUP15-008...ColRichMurai

As you may be aware, if you speak with Jerry Backoff, there is a study on file created by Helix Environmental just prior to the Murai family selling the property to Steve Bieri. This study highlights the resources on site. If you no longer have a copy I would like to make a copy and submit it as part of public record. I would like to meet with you regarding siting of the project and options. If the applicant needs 89 dwelling units I would recommend he purchase the property adjoining his on the north-west side. This would help move some of the development footprint to the west to aid wildlife movement. It would also provide a secondary egress via Esplendido Ave in the event of a wildfire.

I would also like to know how the past grading violations were rectified. I've attached documents relating to that activity.

Thank you very much for your time.

Sincerely

Sandra

Sandra Farrell
1900 Esplendido Ave
Vista, CA 92084

760-415-3349