

PLANNING COMMISSION

Meeting Date: 03-05-18

ADDITIONAL ITEM ADDED AFTER DISTRIBUTION OF PACKET (# 4)

AGENDA ITEM # 3

Applicant/Project Name: ColRich / Murai Specific Plan

Project #: P15-0068

Brief Description: Two letters from Sandra Farrell received on 3/2/18

Date 03/2/18

Time 5:35 pm

RECEIVED

MAR 2 2018

CITY OF SAN MARCOS
PLANNING DIVISION

Sandra Farrell
1900 Esplendido Avenue
Vista, CA 92084
760-415-3349

October 22, 2016

City of San Marcos Planning Division
c/o, Saima Qureshy, AICP, Principal Planner
1 Civic Center Drive
San Marcos, CA 92069
(PlanningDivision@san-marcos.net)

Regarding: Murai Specific Plan P15-0068: GPA15-005, SP15-009, TSM15-007, GV15-002, CUP15-008, SDP16-002, EIR16-001

Attachments:

1. August 2, 2002 Biological Constraints Report prepared by Helix Environmental on the Murai property
2. Mitigation Plan for the Las Posas Road Project by The Planning Associates.
3. August 9, 2011 Letter from California Department of Fish and Game
4. Figure 4.1.1 Reduced Project Alternative with Wildlife Considerations
5. November 7, 2002 letter to Sandra Farrell from US Army Corps of Engineers regarding Las Posas Road Crossing
6. August 15, 2001 letter to KB Homes from Army Corps of Engineers regarding impacts of Las Posas road to Agua Hedionda Creek
7. San Diego County Water Authority, Second San Diego Aqueduct Second Pipeline Land And Right of Way for Bernard-Farrell Properties

Dear Ms. Qureshy,

I appreciate the opportunity to comment on the Draft EIR for Murai project being proposed by Col Rich and Mr. Bieri. Many of the comments and questions I brought up in my letter to the NOP have not been addressed so I am including them and the previous attachments to my comments to the NOP along with my letter dated January 3rd, 2011 to Members of the General Plan Advisory Committee by reference.

The DEIR for the ColRich/Murai project have failed to adequately analyze potential impacts. In addition, the DEIR fails to minimized the amount of the impacts or provide adequately mitigation. As a result, there are additional potential unmitigated impacts that the DEIR needs to address. Finally, I ask that the City and the developer revise the Murai project to reflect past positions by the Wildlife Agencies (both Federal and State) as well as address community concerns.

BIOLOGICAL COMMENTS

1. An adequate wildlife corridor needs to be part of the project. There is long history regarding this issue that the City and the developer have been aware of for many years. On page 18 of the August 2, 2002 Biological Constraints Report prepared by Helix Environmental on the Murai property¹ it states, *"Wildlife Corridor - The north-south wildlife corridor is a major biological issue with the federal and state wildlife agencies. Any development of the site would have to contend with the agency desires as part of the CEQA and Section 7 or Section 10(a) permit processes. The agencies are expected to ask for a total 1,000-foot wide corridor, with 500 feet to occur on the Murai property. ...The issue of how brush management is considered (part of the wildlife corridor or not) will affect the development footprint."*

This report was done prior to the approval for the extension of Las Posas Road across Agua Hedionda Creek which occurred after the November 30th 2002 when the Mitigation Plan for the Las Posas Road Project was in development.² The extension of Las Posas Road on to the Murai property may have eliminated that ability to get 500 feet from the Murai property and 500ft from the KB Homes property, Santa Fe Hills. Therefore, having 500 feet on the Murai property is now critical. The impact of the Las Posas Road extension across Agua Hedionda Creek may be why the Wildlife Agencies, when reviewing a conceptual development plan prior to Mr. Beiri buying the property, asked that the development bubble on the east side of the San Diego County Water Authority Right-of-Way (SDCWA-ROW) be removed. Removing the bubble on the east side would allow for what appears to be a 500 foot wide wildlife corridor. The proposed project does not provide a 500 foot corridor. The DEIR didn't properly analyze the impact of Las Posas Road (which is on the Murai property) nor discuss statements made by Helix Environmental regarding the environmental factors of the site.

During the City's General Plan update in 2011, the Wildlife Agencies again raised the need for a wildlife corridor. In their August 9, 2011 letter to the City of San Marcos³ regarding Mr Beiri's request during the General Plan update for 89 dwelling units, the Wildlife Agencies reinforced their previous position again, noting the importance of the property for conservation and that only 25%, on the northwest side should be developed. The DEIR has not discussed past concerns raised by the wildlife agencies that have been previously brought to the attention of the City of San Marcos and the Developer. See my comment letter to the NOP and Attachment B that was part of my comments to the NOP. The DEIR did not mention this and the Reduced Project Alternative doesn't show an alternative that follows Wildlife Agencies past recommendations.

I also expressed concerns that the the 89 dwelling units was too many. In my letter dated January 3rd, 2011 to Members of the General Plan Advisory Committee and later at the hearings I recommended 60 dwelling units for the site because the 89 units, "...may compromise sensitive resources and [impact of 89 dwelling units] did not reflect San Marcos residents' wishes for future growth and preservation of resources expressed in surveys taken in preparation of the General Plan Update".

¹ August 2, 2002 Biological Constraints Report prepared by Helix Environmental on the Murai property

² Mitigation Plan for the Las Posas Road Project by The Planning Associates.

³ August 9, 2011 Letter from California Department of Fish and Game

So, why does the DEIR not provide a project alternative mention and address these long-standing concerns? Clearly, the Agua Hedionda Creek area is an important even if it is not considered a regional wildlife corridor. In 2002, the Army Corps felt it was important during the extension of Las Posas Road over Agua Hedionda Creek to require a 38-foot wide by 20-foot high arched culvert (soft bottom) as described on page 3 of the 2002 Mitigation Plan for Las Posas Road. The DEIR didn't analyze the project impacts on the ability of wildlife to use the Las Posas Road/Agua Hedionda Creek undercrossing.

2. The Reduced Project Alternative, Figure 4.1 is problematic because it requires emergency egress roads, pedestrian pathways, and what appears to be fuel modification zones several places through the wildlife corridor. A better alternative that should be seriously considered is attached. In this alternative called Reduced Project Alternative with Wildlife Considerations several modifications to the project have been done. I believe it reflects the recommendations from the Wildlife Agencies. Below are a list of the modifications along with the attached 4.1.1.⁴
 - a. To eliminate a secondary egress impacting the wildlife corridor it is proposed to negotiate with the property owner on parcel 1842130100 to purchase a road easement across the parcel, between the VID easement road and the property to the north to create secondary egress. There appears to be about 100 feet between the VID road and the adjacent parcel which should be wide enough for a road. The location would not prevent the property owner from getting full development use of the property. The road is placed in an area where no structures could be built anyway due to the VID easement. Since the actual VID pipeline is south of the VID road, any egress road would not impact the pipeline other than to cross it at one point. This should be possible since the three pipelines within the SDCWA-ROW are being crossed by Street A to access the project from Las Posas Road. Having emergency egress road to the north also places the fuel modification areas near disturbed or developed areas. The proposed emergency egress road follows the line of an existing dirt trail that is seen on Figure 3.3-1., in a path of already disturbed habitat. Having an emergency road at this location allows residents of the Murai project a way out if a fire should erupt along the riparian corridor along Agua Hedionda Creek. It also provides residents in the County with an emergency egress if a fire were to start on the west side of Esplendido, cutting off access to Entrada. Note that Companero does not connect to Holly lane and Entrada is the only access road to Esplendido Ave.
 - b. By having the emergency egress to the north, the project can remove the emergency road that is proposed across the wildlife corridor. Along with the loss of this road is the need for 100 feet on each side of fuel modification.
 - c. The SDCWA-ROW road is already used as a trail so there isn't a need to create more trails to either side of the existing road. Move the trail east, into the fuel mode zone adjacent to the homes or use the existing SDCWA-ROW road as a trail. It makes sense to move the trail back toward the development bubble and within the fuel modification zone. This removes the need for additional fuel modification to the east of the SDCWA-ROW road. Now, if Google Earth Pro measurements are correct, you have 500 foot biological open area between the SDCWA-ROW road and Las Posas Road! There would be less impact to Coastal Sage Scrub and mitigation needed!
 - d. There are only three solutions to making Street A safe so that wildlife can cross it. One would be to use a bridge (much smaller than the bridge Mr. Beiri had to build for the Fieldstone project across Santa Fe rail road tracks) so that wildlife can pass over Street A. Another option would be

⁴ Figure 4.1.1 Reduced Project Alternative with Wildlife Considerations

This alternative uses Figure 4-1 Reduced Project Alternative as a base drawing

Figure 4-1. Reduced Project Alternative

Figure 4.1.1 Reduced Project Alternative with Wildlife Considerations

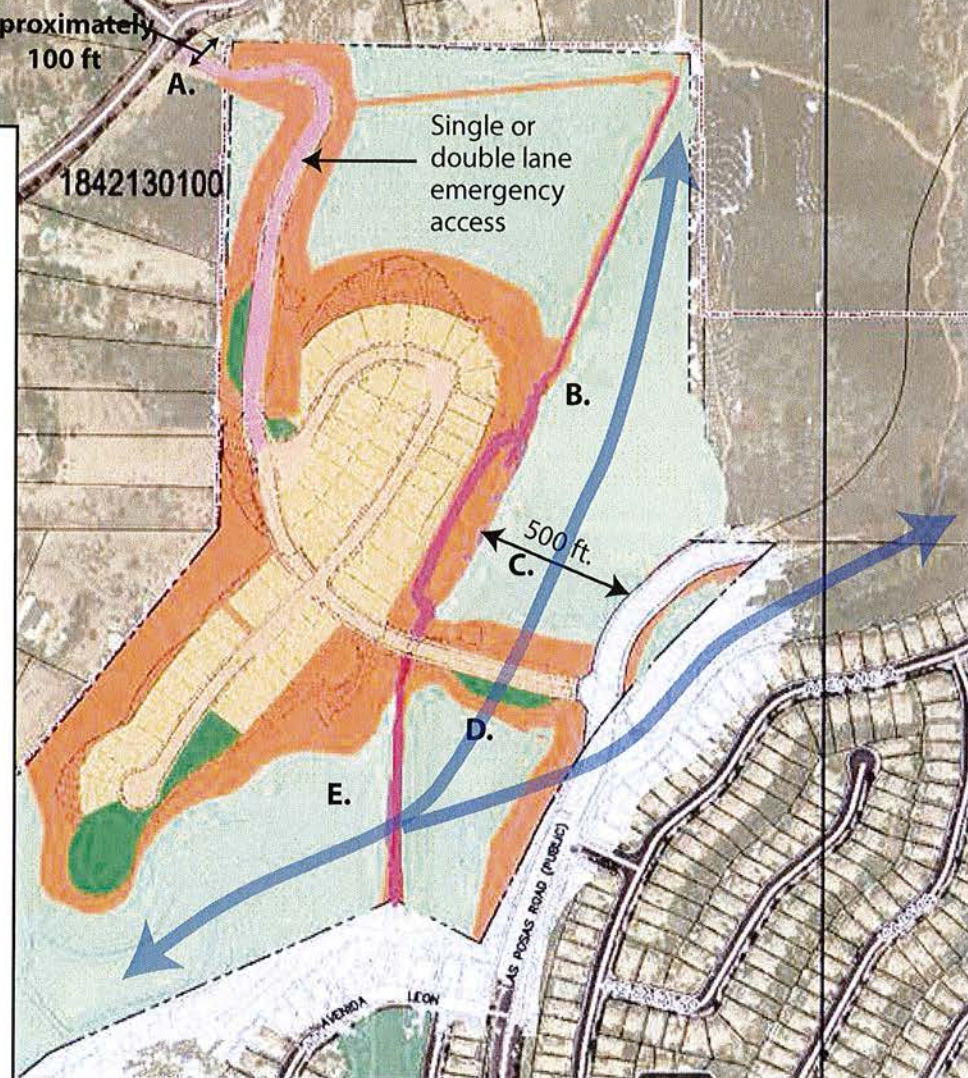
A. Negotiate with the property owner on parcel 1842130100 to purchase a road easement across the parcel and between the VID road and the property to the north for a secondary egress. There appears to be about 100 feet between the VID road and the adjacent parcel. The pipeline is actually south of the VID road so this 100 feet is not suited as a building site.

B. Remove the emergency road shown in Reduced Project Alternative (RPA)

C. Move the trail in the RPA within the fuel modification zone or use the existing SDCWA-ROW road as a trail

D. Provide a wildlife undercrossing or traffic calming measures at Street A.

E. Eliminate the trail in the RPA and use the existing SDCWA-ROW road as the trail. Allow existing native vegetation to remain (Google Earth Pro used for



Reduced Project Alternative with Wildlife Considerations

LAND USE LEGEND

| | | | |
|------------------|--|---------------------------|--|
| RESIDENTIAL LOT | | BIOLOGICAL OPEN SPACE | |
| PARKS | | NON-BIOLOGICAL OPEN SPACE | |
| STREET (PRIVATE) | | MULTI-USE TRAIL | |
| EMERGENCY ACCESS | | TERTIARY EMERGENCY ACCESS | |
| | | PROJECT BOUNDARY | |

Wildlife Movement

- to build an under crossing under Street A that matches the size of the Las Posas undercrossing. The final option, although less environmentally favorable, is to use traffic calming measures, including signage, to slow traffic on Street A down so that wildlife are less likely to be hit by cars.
- e. If the existing SDCWA-ROW road which is used now by the public as a trail is working then why make another trail through the habitat which triggers more areas needing fuel modification? Eliminate the trail at this location and use the existing SDCWA-ROW road as the trail. Allow existing native vegetation to remain.

The Reduced Project Alternative with Wildlife Considerations allows for about 60 units which is what I thought realistic in 2011. By the way, 60 units is only 10 units away from needed a secondary egress. If the project was reduced to 50 units there is a good chance only one road would need to be built, saving a lot money in grading, road construction, fuel modification creation and maintenance.

The DEIR failed to analyze the above methods to minimize impacts and therefore it is inadequate.

Because the Wildlife Agencies have documented over the years the need to have 500-foot wildlife corridor and developing only 25% of the site has been important to the Wildlife Agencies, the DEIR should include an alternative that shows a project on 25% of the land. The DEIR failed to provide an alternative that addressed Wildlife Agency recommendations and therefore it is inadequate.

3. On Page 1-5 it states under 1.5.3 that the Reduced Project Alternative would not allow the project to meet the financial obligations required to contribute to community and city-wide infrastructure that would be required to support the project. No data was supplied to support this conclusion. The DEIR should define what are the financial needs of the project. The constraints of the site were well documented prior to the purchase of the property by Mr. Bieri, a seasoned developer, and known by the City of San Marcos. Why didn't the City, knowing this, consider reducing fees so that Mr. Bieri could develop his property in a manner that would acknowledge the importance of the site and be financially feasible?

If under CEQA economics is not an issue, why is an alternative that reduces impacts viewed as unacceptable because of economic reasons?

4. On this page, it also states, the City's MHCP Draft to retain a 400-foot wide linkage and that analysis of the project had determined that a narrower linkage would still function appropriately. No data was provided in the EIR in the Biological Resources Report to support this conclusion. Therefore the DEIR is inadequate. Please provide evidence with detailed analysis demonstrating how this conclusion was arrived at. It is important that the public and the decision makers know why a linkage narrower than 400-feet wide would be appropriate. As such the statement fails to provide enough detail to adequately analyze the impacts of the project on wildlife if a corridor narrower than 400-foot wide linkage is used.
5. Page 18 of August 2, 2002 Biological Constraints Report prepared by Helix Environmental on the Murai property states, *"Assuming the mitigation ratio for coastal sage scrub would be 2: 1, development under the conceptual plan would require the purchase of approximately 3.5 acres of*

off-site upland habitat as mitigation..." The DEIR doesn't mention a 2:1 ratio of coastal sage scrub or where that mitigation would be. Please clarify what the mitigation ratio will be and where the mitigation will take place.

6. When Las Posas Road was extended across Agua Hedionda Creek by going onto the Murai property the Army Corps required both on and offsite mitigation for the impacts⁵. This was also mentioned in a previous Army Corps letter dated August 15, 2001.⁶ What was the on site mitigation on the Murai property? Please describe where and what mitigation occurred both on the Murai property and off site in connection with this permit and if and how much of the mitigation occurred on the Murai property? Please also describe how this mitigation was similar to different to the mitigation done for the Fieldstone Santalina project. Also, In my comment letter to the NOP a question was not addressed. Why would Mr. Bieri restore one area of the Murai property while filling in a pond and tearing out native grasslands on the same property?
7. The proposed project uses the SDCWA-ROW as the wildlife corridor. This idea has several problems. Although the Biological Report that was an Appendix to the DEIR states that it is about 200 feet wide, I believe it is only about 130 feet wide given that is the width along other properties that share the same easement⁷. It contains the service road to service the pipeline which is free of vegetation and therefore provides no cover for species. The proposed project has homes on each side of the proposed SDCWA-ROW wildlife corridor which will introduce too much human disturbance. Light and noise from back yards adjacent to the SDCWA-ROW as the wildlife corridor will prevent some species from using the SDCWA-ROW as the wildlife corridor. A wildlife corridor needs to be 1000 feet wide but may be constrained to 400 feet wide for a short distance. The project introduces too much human influence into the area to be travelled by wildlife. Therefore, as proposed, the SDCWA-ROW as the wildlife corridor doesn't make a functional wildlife corridor. In fact, the project makes the area a mortality sink. If the Biological Report relied on a corridor width that is actually 70 feet less than the conclusion that the SDCWA-ROW will help provide an adequate wildlife corridor is inaccurate. Therefore the DEIR failed to analyze the impacts of the project on wildlife movement and wildlife corridor design.
8. Because of the location of Las Posas Road, the proposed project has problems. There isn't enough of a corridor width between Las Posas Road and the development bubble located on the east side of the SDCWA-ROW to allow animals to travel along Agua Hedionda Creek where they find shelter and forage for food. Lots 6, 7 and 8 create very steep slopes adjacent to Las Posas road. Wildlife may not be able to navigate such steep slopes and will be forced into Las Posas Road, a road planned to carry about 14,700 cars/trucks per day. It almost appears that the City of San Marcos is using development as a tool to kill off as much wildlife as possible. In my comments to the NOP I asked, *"why Las Posas couldn't go to the west side of the knoll and follow along the path adjacent (SDCWA) easement road. Doing so would provide some key advantages. Wildlife could more easily use the Agua Hedionda Creek corridor because Las Posas Road would not be along the corridor. A project alternative should look at a road realignment for Las Posas*

⁵ November 7, 2002 letter to Sandra Farrell from US Army Corps of Engineers regarding Las Posas Road Crossing

⁶ August 15, 2001 letter to KB Homes from Army Corps of Engineers regarding impacts of Las Posas road to Agua Hedionda Creek

⁷ San Diego County Water Authority, Second San Diego Aqueduct Second Pipeline Land And Right of Way for Bernard-Farrell Properties

Road through the Murai project. (Attachment C)" The DEIR did not address this.

9. It is important to address in the DEIR. Arundo Donex is growing several places on the Muri property and appears to be connected with one of the storm drains that diverts runoff from Santa Fe Hills into Agua Hedionda Creek. The removal of Arundo from the storm drain outfall that was done as part of the mitigation for Fieldstone, Santalina mitigation area is back. In addition, the Arundo from the original stand has migrated downstream and now impacts the pond on the Murai property on the west side as well watercourses west of the Murai property. It is critical to stop Arundo spreading by going upstream and eliminating it from the original source. Without doing so, mitigation involving Arundo removal, is only temporary and until the Arundo returns. Although the project will provide habitat management it seem unfair that residents of the Murai project have to pay for the Arundo removal introduced by other projects that empty into the storm drains and into Agua Hedionda Creek. What has the City done in the past to eliminate the spread of Arundo into Agua Hedionda Creek?
10. I disagree with statement made on paragraph 2 under Unauthorized Grading on page 2-23. According to a resident adjacent to the project site, Bill Wagner who is a retired surveyor, and witnessed the "Unauthorized Grading" event, fill dirt was trucked and used to fill the dry pond area. This fill dirt was never tested. Since this dirt sits in a drainage area that contributes water to Agua Hedionda Creek, a 303D list for impairment, it should be tested and removed if it found to be contaminated.
11. In my comment letter to the NOP I asked that, *"Documentation of the event [illegal filling of the dry/seasonal pond] and the City's response to the incident that is in City's files be part of public record on the Murai project. At the time it was reported to Chris Means at the Regional Water Quality Control Board and to the Wildlife Agencies. The City issued a violation (See attachment E)"*. Please see this in my comment letter to the NOP and let me know why no action was taken regarding the violation?

Page 6 of the Biological Resources Report table 1 shows the dates and times the site was visited and data was collected. However, most of the data was gathered mid-morning to around 4 in the afternoon. Most animals are active in the early morning and evening hours when they are foraging. Bobcats with kittens, have been observed as recently as six months ago by my brother, Scott Farrell who lives at 1908 Esplendido Ave. He said he thought they were living in the canyon to the east of his house that forms the drainage area that runs through 1900 Esplendido Ave and through the Murai property. Bill Wagner who lives adjacent to the Murai property at 2222 Esplendido Ave told me he had seen a bobcat mother and kitten come out of the Agua Hedionda Creek vegetation and that they lived in near his home most of last winter. Suzi Hozie at 1929 Esplendido Ave told me she has seen an adult bobcat on her wood deck, "just strolling by". It therefore seems surprising no scat or sightings of animals such as bobcats were found on the Murai property. Were any animal surveys done during early morning and at dusk when animals are more active?

12. Although protocol was followed in the Biological Resources Report for the gnatcatcher surveys the surveys were done very late in the season. Ideally, surveys for gnatcatchers should be taken

during beginning, middle and finally late in the season to ensure individuals aren't missed. Males are more vocal in April but by June less so because males are not as likely to be defending territory. Also, male gnatcatchers start to shed their caps and become harder to identify. It isn't hard to get confused and mistake a gnatcatcher with another more common bird species such as bush tits. The Biological report lacks details regarding what behaviors and lifestyles were observed. Were any fledglings observed? Why was the survey taken so late in the season since prior reports show evidence of gnatcatchers on the site?

13. Page 15 of the Biological Resources Report states the project is in compliance with the MHCP. Since the Wildlife Agencies never agreed to the City's Subarea Plan for the MHCP, and the City made **NO** progress in the past 17 years to address the problems, the City has **NO** approved MHCP Plan, and in fact, has abandoned the MHCP altogether! How does the proposed project comply with the MHCP? In addition, since San Marcos has exceeded take of Coastal Sage Scrub under 4D rule for the MHCP and will take more Coastal Sage Scrub to execute the proposed development, how can this project comply with the MHCP? This was not mentioned or addressed in the DEIR. The DEIR is therefore inadequate because it did consider the project's impacts on the City ever being able to create an acceptable habitat management plan that is in compliance with the MHCP Biological Goals, Standards and Guidelines.
14. HDR report dated sept 2016, noted the dry pond did not returned to pre-graded condition. This is understandable if fill dirt placed into the dry "seasonal" pond during the violation and wasn't removed. Why wasn't the dirt removed and the pond returned to the pre-graded condition? One other point from Bill Wagner who lives adjacent to the project and observed the illegal grading---- the pond is not always dry. Mr. Wagner observed over the years that wetland plants such as Juncus can be seen in the area of the dry pond. The DEIR didn't address and the impacts of the dirt used to fill the dry or seasonal pond.
15. In my comment letter to the NOP I noted that the undercrossing at Las Posas Road and Agua Hedionda creek had evidence of flooding and was concerned how wildlife would use it when it flooded. Since this undercrossing is on the Murai property and the project will introduce cars on across the undercrossing the project may impact animals traveling down the Agua Hedionda Creek Corridor. Animals now can bypass the undercrossing it if is flooded by traveling west of Las Posas Road. I asked that EIR study how the project could be redesigned to accommodate wildlife movement and keep undercrossing useable for wildlife. I don't see anything that shows how wildlife will move through the site. The DEIR needs to address this.
16. I am concerned that San Marcos Street light standards will cause light pollution. Since the project is in an area containing a wildlife if is important to make sure lighting from street lights doesn't enter the open space areas. Will the proposed the street lights spill into the open space areas and if so, how much? In place of street lights, would the City consider lower residential led pathway lights, triggered by motion, be used to limit light pollution? Will the HOA to monitor outdoor lighting both in private areas and common areas to minimize light pollution and negative impacts of light pollution on wildlife? I didn't see where the DEIR studied the above light pollution issues and it needs to be addressed.

TRAFFIC COMMENTS

17. Page 19 of the Traffic Study said that the city allowed the study Traffic Study to use the trip distribution developed for the San Marcos Highlands for near-term conditions and Horizon Year 2035 conditions to include the extension of Las Posas Road to Buena Creek Road. Because the San Marcos Highlands is still in litigation, the County is opposed to the San Marcos Highlands, and there is no guarantee LAFCO will approve the annexation, there is no guarantee that the San Marcos Highlands will be built or that Las Posas Road will be extended to Buena Creek Road by 2035. The DEIR failed to look at traffic impacts from the project, with and without the San Marcos Highlands and also with and without the extension of Las Posas Road to Buena Creek Road.

GEOTECHNICAL AND WATER QUALITY COMMENTS

18. I noticed Soil type in the drainage areas that run through the site, according to Plate 1 of Sept 2, 2014 report by Advanced Geotechnical Solutions, is Alluvium with Santiago Peach Volcanics soil outside the drainage areas. This means that most of the site has little top soil on bedrock. According to the Figure 7, and Figure 8 in the August 22, 2013 of the Sub Surface Surveys Report, the "Design Profile" of the cuts will reveal large amounts of bedrock. It also notes the residual soil is only 1-3 feet thick with an overlie of meta volcanic bedrock of up to approximately 12.5 feet thick. How will this affect the ability of residents to landscape yard areas and for trees to grow in common areas? Nothing grows in bedrock unless there significant amounts of top soil. Where will the top soil come from and how much will be present in yard areas and common areas where there will be landscape? The DEIR has a landscape plan but failed to analyze if top soil will be needed or consider the impacts to the habitat of importing top soil.
19. Page 8, of the Geotechnical Incorporated Report for Stephen Bieri Company dated November 13, 2003 notes that ground water was observed in pit number 11 at a depth of approximately 4 to 12 feet within the alluvium. Where was Pit no 11 located? Please provide a map. Was this report done prior to the illegal filling of the dry pond?
20. Page 11 of this same report noted groundwater was limited to alluvial areas during our observation of the site, perched groundwater conditions can develop in the fill or bedrock in the future due to irrigation, rainfall or water leaks. Since the project is built on top of natural drainage areas, would it be possible during a large rainfall year that there will be a lot of water rapidly traveling through the drainage areas and under the homes? Could this create a problem for future residents of the Murai project?
21. Historically, in the 1960s and until Santa Fe Hills was built, ponds on the Murai property dried up in the summer and during drought years. They looked very much like the pond on the Highlands property looks when there is little rainfall. After Santa Fe Hills was built and diverted water from the storm drain system into Agua Hedionda Creek, the ponds on the Murai property changed and now are full all year round—even in drought years. In addition, the ponds on the Murai property that will be biological open space have periodic algae blooms due to the chemicals flowing in

from Santa Fe Hills storm drains.

Looking at the CDFG Jurisdictional Delineation map, figure 6, dated 6/5/02 that was part of the original biological assessment prepared by Helix Environmental on the Murai property there are three storm drain outlets that exit the existing Santa Fe Hills onto the Murai property and into Agua Hedionda Creek. The City historically has used Agua Hedionda Creek on the Murai property as a storm water conveyance system.

The developed portions of the project have retention basins built in to address problems with storm water the runoff and pollutants from Murai homes and streets but what the DEIR failed to study was the cumulative impacts to water and pollutants entering the system from adjacent development. Will the implementing the proposed Murai project help clean up pollutants in Agua Hedionda Creek that is being created by adjacent development? Will the Murai project or the City be required to mitigate for the channeling storm water from Santa Fe Hills into Agua Hedionda Creek through the Murai property? What are impacts from storm water runoff from Santa Fe Hills and the habitat on the Murai property that will become part of the biological open space? Will the residents of the Murai project need to pay for these impacts and any clean up and mitigation that could arise from damage due to storm water runoff? The DEIR didn't address these issues or investigate the relationship of the cumulative impacts the additional storm water runoff from the Murai, San Marcos Highlands and Santa Fe Hills will have on water quality of Agua Hedionda Creek. In fact, could the implementation of the Murai project limit any future efforts to clean up pollutants form Agua Hedionda Creek? Although the proposed project limits the direct development in the creek it does potentially contribute to the cumulative impacts to the creek. I would like the City to implement water quality testing and monitoring of the portion of Agua Hedionda Creek within the City of San Marcos and work to reduce the nitrates and other pollutants in the creek.

Although there are retention basins built into this project, it may not be enough to slow down the velocity and lessen the overall all amount of water in the system during a major storm event year. In heavy El Nino years, the amount of water draining off of the adjacent hillsides and down through Agua Hedionda Creek has been known to create a waterfall as the water washes over the spill way creating a heavy eroded gorge on the west side of the spill way of the large pond at on the Murai property. If the Murai dam fails due to increase of water from the Highlands project and Murai project, there could be extensive flooding, property loss, and toxic chemicals from the painting operation of Aztec Container washed into Agua Hedionda Creek and carried downstream.

Although the DEIR mentions the existing dams on the Murai property the DEIR it failed to study the impacts downstream if the larger dam on the Murai property fails. Although we are in a drought now and the area may be drier in the future, global warming is making weather patterns more severe so we may have an El Nino that has far more rainfall than anticipated. Since the site will be excessively dry and less vegetated due to the long drought the impact of a lot of rain over a short period of time could have major impacts to the site and downstream.

AESTHETICS

22. The architectural elevations shown in Figure 3.1-4 through 3.1-6 only show the front of the proposed homes and not the backs which will be viewed from adjacent residents who live with a view of the project area. The back views are found in the Appendix -- Specific Plan, A3-A6 and A9- 22. Looking at the back elevations on the Santa Barbara, Contemporary Farmhouse, and Contemporary Craftsman, with the exception of the roof line, all the homes look the same. There is nothing to suggest any uniqueness when these homes are viewed from the back side. Therefore the views from a typical resident's 15 foot deep back yard is the back side stucco box without detail. The back sides of these homes face toward Santa Fe Hills and Esplendido Avenue and should have enough detail so it is clear they represent different styles. Aesthetic appeal should not only be limited to the front.
23. With the exception of the so called "contemporary craftsman" façade type the rest of the elevations are tired and dated. Consider the age and aesthetics of the buyer and provide more unique façade solutions. Consider consulting with students at the New School of Architecture in San Diego to see if a fresher approach can make the facades more appealing to younger urban homeowners.
24. The visual simulations don't appear to be accurate. They look like they used a wide angle camera. It would be beneficial for the public to see the actual building massing if story poles were placed in the ground showing the final height after grading of the homes. This would only need to be done for lots 1,6,9,13,25,60 and 68.

ADDITIONAL COMMENTS

25. The Noise Assessment dated August 17, 2017 by LDN Consulting Inc. noted that the proposed rock crusher location noise contour for 60 dba appears to impact 1908 Esplendido. Is this correct? How long will the rock crusher be in operation and will there be any sound attenuation done to reduce the sound hitting residents along Esplendido Avenue?
26. Blasting is a concern to those who have pets or for those who work at home. In addition, several residences nearby have home business. How frequent will the blasts be during the 90 day duration? Will the blasting for this project occur at the same time the blasting could be occurring on the adjacent San Marcos Highlands? The DEIR didn't address how the timetable for blasting and crushing will be scheduled if the Murai and San Marcos Highlands are built at the same time. The DEIR failed to consider the cumulative impacts to City and County residents near the site if the Murai and the San Marcos Highlands development are blasting and crushing rock at the same time. What measure will be taken to protect residents along Esplendido to the impacts of blasting? If a blasting event causes damage offsite what will be the reporting mechanism?

I do not believe the City of San Marcos and the developer have not done an adequate analysis of the impacts or provided adequate recommendations to minimize impacts in the Murai DEIR. Failure to do

proper analysis has the potential to create serious unmitigated impacts that will harm the environment, residents in San Marcos, and residents in the County. The DEIR needs to provide adequate analysis, and provide a project design that is reasonable given the constraints of the site. This concludes my comments. Thank you for the opportunity to respond to the DEIR on Murai project. Please contact me at 760-415-3349 if you have any questions.

Sincerely,

Sandra Farrell

Copy to:

US Army Corps of Engineers

US Fish and Wildlife

California Department of Fish and Wildlife

Mary Clarke

BIOLOGICAL CONSTRAINTS REPORT

August 2, 2002

Prepared for:

PRESIDENT ASSET GROUP, LLC
10565 Civic Center Drive, Suite 288
Rancho Cucamonga, California 91730

Prepared by:

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

5.5.3 Lighting

Lighting of the proposed project may pose a constraint to development. Lighting impacts would occur if facility lights are focused onto adjacent sensitive habitat areas within the adjacent open space areas. 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, berming or shielding devices to avoid this potentially significant indirect impact.

5.5.4 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 other nesting raptors. During construction grading, precautions should be taken to avoid interfering with the breeding season of these birds, 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. At the writing of this report, no nesting gnatcatchers or active raptor nests were observed on site. Additional surveys should be conducted immediately prior to construction activities if they are to take place within the breeding season.

5.5.5 Barriers

The proposed development is residential; therefore, it may introduce dumping, pets, and human intrusion to the open space. Fencing along the development edge likely would be required to protect the open space from dumping of garbage or landscaping refuse, trail creation by people, and hunting or harassment of native species by domestic animals.

5.5.6 Invasives

Invasive exotic plants are a serious indirect threat to natural communities in southern California. Invasive plants should not be introduced to areas adjacent to sensitive habitats such as those occurring in open space because their seeds can be spread into the natural habitats by wind, run-off, or animals. This is particularly important due to the proximity of wetland habitat, which is susceptible to invasion by several common landscape ornamental species. Landscaping with native species is preferred, but non-invasive ornamentals are acceptable. All planting plans should be reviewed by a qualified biologist in order to identify any potentially invasive species prior to planting.

6.0 ANALYSIS OF CONCEPTUAL PLAN

For the interagency meeting held July 22, 2002, ADL Planning developed a conceptual development plan provided to the resource agencies prior to the field meeting. HELIX analyzed impacts in the conceptual plan (Figure 8; Tables 4 and 5), which did not include any park facilities, trails, or brush management. As a result, it is reasonable to expect that actual development of the property per the conceptual plan would result in approximately five acres of additional impact.

HELIX

Table 4
CONCEPTUAL SITE PLAN IMPACTS*

| VEGETATION TYPE | IMPACTS | | PRESERVED | TOTAL |
|--|---------|-----------|-----------|-------|
| | Project | By Others | | |
| Wetland Habitats | | | | |
| Freshwater marsh | | | 1.12 | 1.12 |
| Southern willow scrub | | | 0.47 | 0.47 |
| Mule fat scrub | 0.15 | | 1.31 | 1.46 |
| Southern cottonwood-willow riparian forest – disturbed | | 0.08 | 0.65 | 0.73 |
| Coast live oak woodland | | | 0.08 | 0.08 |
| Disturbed wetland | | | 0.04 | 0.04 |
| Open water | | | 1.56 | 1.56 |
| Dry pond | 0.03 | | 0.00 | 0.03 |
| Shoreline | | | 0.19 | 0.19 |
| Subtotal | 0.18 | 0.08 | 5.42 | 5.68 |
| Other Habitats | | | | |
| Diegan coastal sage scrub | 35.6 | 1.5 | 37.4 | 74.5 |
| Coyote brush scrub | 1.5 | | 1.4 | 2.9 |
| Native grassland | 1.2 | | 0.3 | 1.5 |
| Native grassland – disturbed | | | 0.2 | 0.2 |
| Non-native grassland | 0.6 | | 0.5 | 1.1 |
| Eucalyptus woodland | | | 0.1 | 0.1 |
| Disturbed habitat | 1.7 | | 4.1 | 5.8 |
| Subtotal | 40.6 | 1.5 | 44.0 | 86.1 |
| GRAND TOTAL | 40.8 | 1.6 | 49.42 | 91.78 |

*Wetland habitats are rounded to the nearest one hundredth of an acre, and remaining habitats to the nearest tenth of an acre.

Table 5
CONCEPTUAL SITE PLAN JURISDICTIONAL IMPACTS

| JURISDICTIONAL RESOURCE | IMPACTS | |
|---|---------|------|
| | ACOE | CDFG |
| Non-wetland Waters of the U.S./Streambeds | 0.13 | 0.13 |
| Dry pond | 0.03 | 0.03 |
| Mule fat scrub | 0.15 | 0.15 |
| TOTAL | 0.31 | 0.31 |

The conceptual plan is consistent with the Draft Subarea Plan goal of preserving about 50 percent of the property in natural open space. The Plan preserves the majority of the large riparian corridor in natural open space and provides a substantial north-south corridor through the property as recommended by the Plan. The Plan was presented to the wildlife agencies with their recommendations as follows:

1. They prefer 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.
3. They are looking for a 1,000-foot wide wildlife corridor, 500 feet of which would have to occur on the Murai Property. They recommended revising the site plan (which would substantially reduce the development footprint) in order to allow for a much wider corridor, particularly in the northern portion of the site.
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 would discourage development of any facilities in the open space, including trails. If trails were approved, the width should be minimized to 8 feet (they voiced displeasure with City's typical trail widths of 20 feet).
7. They said all brush management must occur outside of the natural open space.

It is our feeling that the proposed development plan is reasonable if the development bubble to the east of the aqueduct is removed. The plan minimizes impacts to the major riparian corridor and provides for a wide north-south corridor through much of the site. The conceptual plan begins to pinch the corridor width at the northern extent of the site, and it is our belief that development may have to be reduced in this area. The major challenge in getting this conceptual plan approved is 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.

PERMITTING AND MITIGATION COSTS

Based on the conceptual mitigation plan, it is anticipated that a Section 404 Nationwide permit from the ACOE would be required since the impact area is less than 0.5 acre. A Section 1603 agreement from CDFG also would be required, as would a Section 401 Certification and a Report of Waste Discharge Permit from the Regional Water Quality Control Board. With regard to endangered species, it is anticipated but not ensured that a Section 7 consultation would be possible as part of the 404 permit process. Both 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 California Environmental Quality Act (CEQA) document is completed.

HELIX

Assuming the mitigation ratio for coastal sage scrub would be 2:1, development under the 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). According to David Acuff at the City (Pers. comm. 2002), there are other developers looking for coastal sage scrub mitigation lands in San Marcos. There are no mitigation banks available, but there are some lands adjacent to the City's FPA that would 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 is available at about \$10,000 per acre.

Based on the conceptual plan, the project would impact about 0.18 acre of wetlands and 0.13 acre of streambed. The anticipated mitigation (3:1 ratio for wetlands and 1:1 for streambeds) would likely require creation of approximately 0.31 acre of wetlands and preservation/enhancement of approximately 0.36 beyond that. There is 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:

| | |
|---|--------------------|
| 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 | \$1,000,000 |

7.0 SUMMARY

The subject property is occupied with native habitats and slightly disturbed native habitats. The most prominent features of the property include the large riparian corridor along the southern extent of the site and the coverage of most of the site with coastal sage scrub habitat. Based on studies to date, the site does not appear to contain many sensitive species, but it is considered an important parcel for regional wildlife corridor issues. Following is a summary of the major findings of this constraints report.

- Diegan Coastal Sage Scrub Habitat/California Coastal Gnatcatcher – The greatest constraint to development of the site is the presence of coastal sage scrub habitat on the property, which requires complying with the federal ESA. The recommended compliance method is to obtain a Section 7 Consultation with the USFWS as part of the ACOE 404 permit process. Based on input from the ACOE, it is reasonable to assume this would be possible since a gnatcatcher was observed on the site near the jurisdictional area. However, it is not guaranteed that a Section 7 could be obtained. Alternatively, a Section 10(a) permit, which takes much longer and increases mitigation measures, would be required.
- Wetland Habitat Along Drainages – The property contains a major wetland corridor that extends across the southern portion of the site. This habitat area would have to be avoided to the maximum extent possible, and based on the conceptual plan, there appears to be a development project plan available to achieve that. In addition, based on the conceptual plan, it is anticipated

that required permits would include a Section 404 Nationwide permit, Section 401 Certification, Section 1603 Agreement, and a Section 7 consultation.

- Wildlife Corridor – The north-south wildlife corridor is a major biological issue with the federal and state wildlife agencies. Any development of the site would have to contend with the agency desires as part of the CEQA and Section 7 or Section 10(a) permit processes. The agencies are expected to ask for a total 1,000-foot wide corridor, with 500 feet to occur on the Murai property. We anticipate that this corridor width would be reduced through the negotiating process. The USFWS would try to convince the ACOE to agree to not issue the 404 permit unless the 500-foot width is maintained. The USFWS also could find a jeopardy opinion on the Section 7 consultation, but this is not considered likely to occur. The issue of how brush management is considered (part of the wildlife corridor or not) will affect the development footprint.
- Narrow Endemic Plants – Unfortunately due to low rainfall, 2002 was a very poor year to find rare plant species. The site has some potential to support four narrow endemic plant species, which can be a very serious constraint to development. One of these plants, the thread-leaved brodiaea, is a highly sensitive federal-threatened, state-endangered, MHCP narrow endemic plant known to occur just south of the site. Although the soils within which it occurs to the south do not occur on the Murai property, the potential for this species to occur on site must be considered as a potential. Due to habitat preferences, the potential for the other three narrow endemic species to occur on site is lower than for brodiaea; however, finding these species during a better survey year remains a possibility.
- Las Posas Road – The permitting activities for Las Posas Road and Fairbanks Highlands could affect the developability of the subject property. Although the Las Posas Road permitting is far along, there is a need to complete the 404 permit process, which the ACOE may insist needs to be tied to a development rather than a stand-alone project. If the 404 permit is tied to a development project, we anticipate it to be the La Paloma project, and we anticipate that the ACOE would require an Individual permit. However, it is possible that the Corps may want to tie the road project to the future development of the Murai property. If the road is permitted and built by others, it provides a potential access point to the site and relieves the Murai property developer from having to permit and construct the crossing of the major riparian corridor.
- Park Development – The City may request development of park facilities near the lake located along the riparian corridor. The wildlife agencies would resist any type of development in the open space corridor, including construction of even passive facilities and trails.
- Mitigation Requirements – Mitigation for project impacts would occur on site to the extent possible, though based on the conceptual plan, approximately 35 to 40 acres of upland habitat would have to be purchased off site and preserved. Approximately 0.3 acre of wetlands would have to be created (ideally, on site) along with an additional on-site area preserved and/or enhanced. Wetland creation is limited on site and may have to be moved off site.
- Mitigation Costs – Mitigation cost estimates for development of the property should consider the following tasks: permitting, off-site upland mitigation purchase, on- or off-site wetland mitigation (creation and /or restoration), and endowments to provide for long-term management. For planning purposes, biology mitigation costs are estimated at roughly \$1,000,000.

Plant Diversity

Plant species account for the majority of the biomass in a riparian/marsh system such as found in Hedionda Creek. There is a constant dynamic involving growth of new vegetation and decomposition of old vegetation. The complex situation within riparian and marsh habitats allows for a gradient of structural diversity. Both living biomass and detritus are equally important in supporting species diversity due to the greater numbers of microhabitats and associated species. In addition, taller shrubs and trees or dead snags in riparian systems can provide an element of structural diversity and can be valuable nesting habitat for raptors and other bird species. Impacting the small amount of existing wetland areas onsite will have a minor effect on the plant diversity of the area. Through invasive non-native plant removal onsite and creation through credit purchase of wetland habitat at the Pilgrim Creek mitigation site, the integrity of the overall wetland system of the north San Diego area will be substantially increased. The mitigation program will create a multi-tiered habitat that will encourage plant diversity throughout the region.

Wildlife Diversity

Wildlife diversity is normally higher in riparian and marsh zones than in surrounding habitats. These habitats can serve as movement corridors, water sources, and shelter/shaded areas, and the unique microclimate supports a variety of wildlife at all taxonomic levels. Many bird, fish, amphibian, and insect species are completely restricted to riparian and marsh habitats and are dependent on them for breeding. Amphibians, reptiles, birds, and mammals also move back and forth across riparian and marsh habitats into adjacent upland or wetland habitats. Wetlands provide surface water and insects for fish, amphibians, and birds; spawning grounds for aquatic fauna; habitat for rare and endangered species; and corridors for wildlife movement. Riparian systems also are intimately linked with adjacent upland areas, and many species that are restricted to riparian and marsh habitats for breeding use upland areas surrounding riparian habitats for foraging.

The riparian and marsh habitat onsite supports a wide variety of wildlife, and a majority will be retained in project open space. To reduce the potential for fragmenting habitats north and south of the crossing, a 38-foot wide by 20-foot high arched culvert (with soft bottom) will be utilized. The project will not substantially affect wildlife, and the creation of wetland habitat at the mitigation site will eventually provide habitat for an equal number and variety of species that currently exist within the proposed project area.

II. GOAL OF MITIGATION

The goal of mitigation is to compensate for impacts to wetlands through a combination of the purchase of offsite creation credits and onsite preservation/enhancement. A total of approximately 1.80 acres of offsite wetland habitat credits will be purchased at the Pilgrim Creek Mitigation Bank located just north of San Marcos in the City of Oceanside. These credits include .6 acres of wetland habitat creation and 1.2 acres of wetland restoration. The remaining portion of Hedionda Creek within the project area would be protected through a Conservation Easement and a non-native plant removal program will be implemented.

The Planning Associates

Mitigation Plan for the Las Posas Road Project / November 30, 2002

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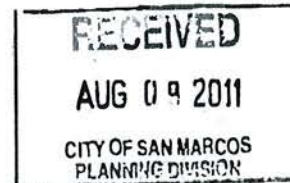
THE PLANNING ASSOCIATES FAX: 714-556-3905
Dec 3 '02 9:25 P.07
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#45.



State of California - The Natural Resources Agency
DEPARTMENT OF FISH AND GAME
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.dfg.ca.gov

EDMUND G. BROWN, Jr., Governor
JO N McCAMMAN, Director



August 9, 2011

Mr. Gary Koller
City of San Marcos
Development Services Department
1 Civic Center Drive
San Marcos, CA 92069-2918

Subject: Comments on the Notice of Preparation of a Draft Environmental Impact Report for the City of San Marcos General Plan and Zoning Ordinance Update Project SCH# 2011071028

Dear Mr. Koller:

The Department of Fish and Game (Department) has reviewed the above-referenced Notice of Preparation (NOP) for the preparation of a Draft Environmental Impact Report (DEIR) for the City of San Marcos General Plan and Zoning Ordinance Update dated July 11, 2011. The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (CEQA Guidelines §15386) and pursuant to our authority as a Responsible Agency under CEQA Guidelines Section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (CESA; Fish and Game Code §2050 *et seq.*) and Fish and Game Code Section 1600 *et seq.* The Department also administers the Natural Community Conservation Planning (NCCP) Program. The City of San Marcos (City) is currently participating in the NCCP program through the preparation of its Multiple Habitat Conservation Plan (MHCP) Subarea Plan (SAP).

The City is the geographical center of North San Diego County and is bordered on the east by the City of Escondido, on the west by the City of Carlsbad, and on the south by the City of Encinitas. Unincorporated lands of the County border the City on the south and north. The City identified Focus Areas which consist of areas where land use changes are likely to occur throughout the City. These Focus Areas consist of City Change Areas, Study Areas, Consideration Areas, and Property Owner-Initiated Areas. The City Change Areas represent areas in San Marcos where changes in planned land use have been previously adopted by the City Council or are pending. These areas are located in the central and southern areas of the City. Consideration Areas are also highly likely to experience land use change throughout the planning horizon of the General Plan. In some cases the land use designation will be changed to allow uses that differ from what exists in the area today or what the existing General Plan designation allows. In other cases, the land use designation is proposed to be updated to better match the character of development that currently exists for the particular Consideration Area. The proposed General Plan reflects changes to 10 individual Consideration Areas which are located in the central and southern areas of the City. Property Owner-Initiate Areas represent areas in the City where property owners have requested changes to the allowable land uses on

Conserving California's Wildlife Since 1870

their property. There are 41 individual Property Owner-Initiated Areas represented in the proposed General Plan located primarily in the northern and southern regions of the city.

The Department offers the following comments and recommendations to assist the City in avoiding or minimizing potential project impacts on biological resources.

Specific Comments

1. Consideration Areas located within the southern area of San Marcos (See Attachment; Site 1) are located within the MHCP's Biological Core and Linkage Area (BCLA). Therefore, discussions regarding impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, and avoidance should be fully evaluated. Additionally, a discussion of potential adverse impacts from lighting, noise, human activity, exotic species, and drainage should also be included in the DEIR.
2. The Murai property, located in the northeastern area of the city (See Attachment; Site 2) and the property located to the east (See Attachment; Site 3) are considered MHCP BCLAs and are located within the City's suggested Property Owner-Initiated Areas parcels (See Attachment). Site 3 is valuable because it is located within a preserve area that contains coastal sage scrub and chaparral. The Murai parcel is within a 75% conservation area. Therefore, only 25% of the area located northwest of Aqua Hedionda Creek may be developed. The Murai property is also located in an area that is known to provide habitat for the federal-threatened California gnatcatcher (*Poliophtila californica*; gnatcatcher). The City currently has no federal incidental take permits for this species through its MHCP SAP since it is still in draft form. Therefore, individual project impacts to the gnatcatcher would require take authorization from the U.S. Fish and Wildlife Service, until such time as an MHCP SAP is completed by the City.
3. The Department would also emphasize that one of the purposes of CEQA is to "prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives when the governmental agency finds the changes to be feasible" (CEQA Guideline, Section 15002 (a)(3)). Therefore, the CEQA alternatives analysis for this project is extremely important. The Department is particularly interested in the DEIR describing a "range of reasonable alternatives to the project (particularly options that minimizing development encroachment into biological resource areas). Additionally, in order for the Department to utilize the CEQA document as a Responsible Agency, the alternatives must include those which avoid or otherwise minimize impacts to sensitive biological resources that are regulated by the Fish and Game Code. Therefore, it is recommended that the DEIR discuss the aforementioned list of alternatives in the Alternative Analyses Report.

General Comments

1. The Department has responsibility for wetland and riparian habitats. It is the policy of the Department to strongly discourage development in wetlands or conversion of wetlands to uplands. We oppose any development or conversion which would result

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endangered, threatened, or candidate species that results from the project is prohibited, except as authorized by state law. Consequently, if the Project, Project construction, or any Project-related activity during the life of the Project results in take of a species designated as endangered or threatened, or a candidate for listing under CESA the Department recommends that the project proponent seek appropriate take authorization under CESA prior to implementing the project. Appropriate authorization from the Department may include an incidental take permit or a consistency determination in certain circumstances, among other options.

- a) Biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA permit.
- b) Department-approved Mitigation Agreement and Mitigation Plan are required for plants listed as rare under the Native Plant Protection Act.

Biological Resources within the Project's Area of Potential Effect

3. To provide a complete assessment of the flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, sensitive, and locally unique species and sensitive habitats, the DEIR should include the following information.

- a) Per CEQA Guidelines, Section 15125(c), information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis should be placed on resources that are rare or unique to the region.
- b) A thorough assessment of rare plants and rare natural communities, following the Department's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (see: <http://www.dfg.ca.gov/habcon/plant/>) (hard copy available on request).
- c) A current inventory of the biological resources associated with each habitat type on site and within the area of potential effect. The Department's California Natural Diversity Data Base (CNDDB) should be consulted. CNDDB staff in Sacramento may be contacted at (916) 322-2493 or www.dfg.ca.gov/biogeodata/ to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code.
- d) An inventory of rare, threatened, and endangered, and other sensitive species on site and within the area of potential effect. Species to be addressed should include all those which meet the CEQA definition (see CEQA Guidelines, §15380). This should include sensitive fish, wildlife, reptile, and amphibian species. Seasonal variations in use of the project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required.

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Mr. Gary Koller
August 9, 2011
Page 5 of 7

Acceptable species-specific survey procedures should be developed in consultation with the Department and the U.S. Fish and Wildlife Service.

Analyses of the Potential Project-Related Impacts on the Biological Resources

4. To provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, the following should be addressed in the DEIR.
 - a) A discussion of impacts associated with increased lighting, noise, human activity, changes in drainage patterns, changes in water volume, velocity, and quality, soil erosion, and/or sedimentation in streams and water courses on or near the project site, with mitigation measures proposed to alleviate such impacts should be included.
 - b) Discussions regarding indirect project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., preserve lands associated with a Natural Community Conservation Plan). Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated and provided. A discussion of potential adverse impacts from lighting, noise, human activity, exotic species, and drainage. The latter subject should address: project-related changes on drainage patterns on and downstream of the project site; the volume, velocity, and frequency of existing and post-project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-project fate of runoff from the project site. The discussions should also address the proximity of the extraction activities to the water table, whether dewatering would be necessary, and the potential resulting impacts on the habitat, if any, supported by the groundwater.
 - c) The zoning of areas for development projects or other uses that are nearby or adjacent to natural areas may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the environmental document.
 - d) A cumulative effects analysis should be developed as described under CEQA Guidelines, Section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.

Mitigation for the Project-related Biological Impacts

5. The DEIR should include measures to fully avoid and otherwise protect Rare Natural Communities from project-related impacts. The Department considers these communities as threatened habitats having both regional and local significance.

6. The DEIR should include mitigation measures for adverse project-related impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of project impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.
7. For proposed preservation and/or restoration, the DEIR should include measures to perpetually protect the targeted habitat values from direct and indirect negative impacts. The objective should be to offset the project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed include restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, increased human intrusion, etc.
8. In order to avoid impacts to nesting birds, the DEIR should require that clearing of vegetation, and when biologically warranted construction, occur outside of the peak avian breeding season which generally runs from February 1 through September 1 (as early as January for some raptors). If project construction is necessary during the bird breeding season, a qualified biologist should conduct a survey for nesting birds, within three days prior to the work in the area, and ensure no nesting birds in the project area would be impacted by the project. If an active nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not interrupted. The buffer shall be a minimum width of 300 feet (500 feet for raptors), shall be delineated by temporary fencing, and shall remain in effect as long as construction is occurring or until the nest is no longer active. No project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be impacted by the project.
9. The Department generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species. Studies have shown that these efforts are experimental in nature and largely unsuccessful.
10. Plans for restoration and revegetation should be prepared by persons with expertise in southern California ecosystems and native plant revegetation techniques. Each plan should include, at a minimum: (a) the location of the mitigation site; (b) the plant species to be used, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity.

This alternative uses Figure 4-1 Reduced Project Alternative as a base drawing

Figure 4-1. Reduced Project Alternative

**Figure 4.1.1
Reduced Project Alternative
with Wildlife
Considerations**

- A.** Negotiate with the property owner on parcel 1842130100 to purchase a road easement across the parcel and between the VID road and the property to the north for a secondary egress. There appears to be about 100 feet between the VID road and the adjacent parcel. The pipeline is actually south of the VID road so this 100 feet is not suited as a building site.
- B.** Remove the emergency road shown in Reduced Project Alternative (RPA)
- C.** Move the trail in the RPA within the fuel modification zone or use the existing SDCWA-ROW road as a trail
- D.** Provide a wildlife undercrossing or traffic calming measures at Street A.
- E.** Eliminate the trail in the RPA and use the existing SDCWA-ROW road as the trail. Allow existing native vegetation to remain (Google Earth Pro used for

Approximately
100 ft
A.
1842130100

Single or
double lane
emergency
access





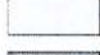




B.

500 ft.
C.

D.

E.

**Reduced Project Alternative with Wildlife
Considerations**

| LAND USE LEGEND | | | |
|------------------|--|---------------------------|---|
| RESIDENTIAL LOT |  | BIOLOGICAL OPEN SPACE |  |
| PARKS |  | NON-BIOLOGICAL OPEN SPACE |  |
| STREET (PRIVATE) |  | MULTI-USE TRAIL |  |
| EMERGENCY ACCESS |  | TERTIARY EMERGENCY ACCESS |  |
| | | PROJECT BOUNDARY |  |



Wildlife Movement



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
SAN DIEGO FIELD OFFICE
16885 WEST BERNARDO DRIVE, SUITE 300A
SAN DIEGO, CALIFORNIA 92127

REPLY TO
ATTENTION OF:

November 7, 2002

Office of the Chief
Regulatory Branch

Friends of Hedionda Creek
Attn: Sandra Farrell
1900 Esplendido Ave.
Vista, CA 92084

Dear Ms. Farrell:

The Corps of Engineers has received your letter dated October 16, 2002 concerning the Las Posas Road crossing permit (Permit Nos. 199916057-RRS) and Regulatory Branch is responding on behalf of the District Engineer. Reference is also made to our Nationwide permit confirmation letter to Kaufman & Broad dated October 17, 2002 approving their project to construct the Las Posas road crossing across Aqua Hedionda Creek, in San Diego County, CA. Additional reference is made to our fact sheet dated October 16, 2002 that provides an analysis of the direct, indirect, and cumulative effects of the project. The Corps previously mailed a copy of the nationwide permit confirmation and fact sheet to you on October 31, 2002.

In regard to your inquiry as to whether the applicant is required to mitigate onsite for project impacts to wetlands (and the violation) the Corps has required both onsite and offsite mitigation. As stated in our fact sheet we shall require up to 3 acres of onsite and offsite mitigation consisting of: 1) onsite invasive plants/trash removal and natural re-vegetation in the project vicinity, 2) 1.01 acres of wetlands creation along Twin Oaks creek within the Aqua Hedionda creek watershed, and 3) 1.8 acres of credits to be purchased at the Pilgrim Creek Wetlands mitigation bank. The total mitigation of up to 3 acres is required for 0.49 acre of wetlands impacts to Aqua Hedionda Creek. For the unauthorized fills relating to the Paloma housing development the Corps has required the installation of storm drain filters prior to the initiation of construction of the road crossing.

The Corps has also reviewed your contentions that we should have required an Environmental Impact Report (EIR), the project was piecemealed, and that the Development Agreement between the applicant and the City of San Marcos was not adequate justification and thus was not in the best interest of the public. We are now consulting informally under Section 7 of the Endangered Species Act on the San Marcos Highlands project and the applicant shall be required to go through the Section 404 process. Also the construction of the Murai property project and the remainder of the Las Posas road project shall require permitting under Section 404 and 401 of the Clean Water Act and Section 7 of the Endangered Species Act.

-2-

Overall, the Corps has determined that issuance of the nationwide permit confirmation for the Las Posas road crossing is in the public interest given the substantial amount of mitigation and avoidance of Aqua Hedionda Creek. We also agreed to your request that all trash and debris be removed from the project site and have made it a permit condition. If we can be of any assistance to you, please feel free to contact Robert R. Smith Jr., P.E. of my staff at (213) 452-3419. The receipt of your letter is appreciated.

Sincerely,


George J. Beams, P.E.
Chief, Construction-
Operations Division



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

REPLY TO

August 15, 2001

Office of the Chief
Regulatory Branch

KB Homes
Mr. Kurt Bausbeck
12235 El Camino Real, Suite 100
San Diego, CA 92130

Dear Kurt:

This letter concerns your after-the-fact permit application (No.199916057-RRS) for the Paloma/Santa Fe development. As part of your application, you propose to construct a road crossing over Aqua Hedionda Creek, which would impact 0.6 acres of waters of the United States. The road is presently proposed to terminate at the Murai Property boundary without connecting to any existing facility or project. In light of comments received during the Corps' public notice comment period and your responses to these comments, we have subsequently developed the scope of analysis for our combined environmental review of your proposed action. Our decision is based on the following considerations, and we hereby request additional information to complete our required analysis.

During a pre-application meeting held between you and the Corps concerning the San Marcos Highlands project, a future development adjacent to the proposed development, you indicated access to this future development would be achieved via the proposed Las Posas Road. The City of San Marcos in their letter of June 27, 2001 (copy attached) indicated a need for an arterial road to Buena Creek Road, of which Las Posas Road would fulfill that need. Your response to comments received on the public notice stated the "need" for the road was to comply with the perceived needs of the City of San Marcos and to promote development.

Our regulations at 33 CFR 325.1(d)(2) state, "All activities which the applicant plans to undertake which are reasonably related to the same project and for which a DA permit would be required should be included in the same permit application." Upon consideration of the above information, we have determined the presently proposed Las Posas Road crossing is reasonably related to both the San Marcos Highlands project and the arterial link connection to Buena Creek Road. The road, by itself, does not connect to any functionally independent approved project and thus lacks independent utility in which to narrow our review of direct, indirect and cumulative impacts. This means that "but for" the San Marcos Highlands Project and (or) the desire by the City to have an arterial road to Buena Creek Road, Los Posas Road would not be constructed, and is not needed. By segmenting the road, it appears the overall project is being piecemealed, preventing an adequate and thorough review of the direct,

indirect, and cumulative impacts associated with the overall project. If you desire to keep Las Posas Road as part of the project, we have determined the project description is incomplete for purposes of preparing and completing our environmental review. We have preliminarily determined the scope of analysis for completion of our environmental review includes the Paloma/Santa Fe development, the San Marcos Highlands Project and the entire road alignment for Las Posas Road, and the corresponding growth inducing impacts. At this time, we are unable to assess the indirect and cumulative effects associated with the San Marcos Highlands Project and the entire road alignment given the information you have provided.

Therefore the Corps is requesting, per 325.19(d)(9)(e), that you furnish us with the following information within the next 60 days in order for us to undertake our required environmental review of the proposed action:

- 1) The entire road alignment for Las Posas Road to Buena Creek Road, including an assessment of impacts to wetlands and waters of the United States for the different alternatives that are being evaluated including the overall project purpose and need for the entire Las Posas Road project.
- 2) The Final Environmental Impact Report for the entire Las Posas Road project and the San Marcos Highlands project or other appropriate CEQA documents.

In addition, our review needs to consider compliance with the Pilgrim Creek Mitigation Banking instrument and the BO. Therefore, a draft mitigation plan in the form of on-site wetland creation/restoration (or same water shed) needs to be provided. The plan needs to consider the revised project description.

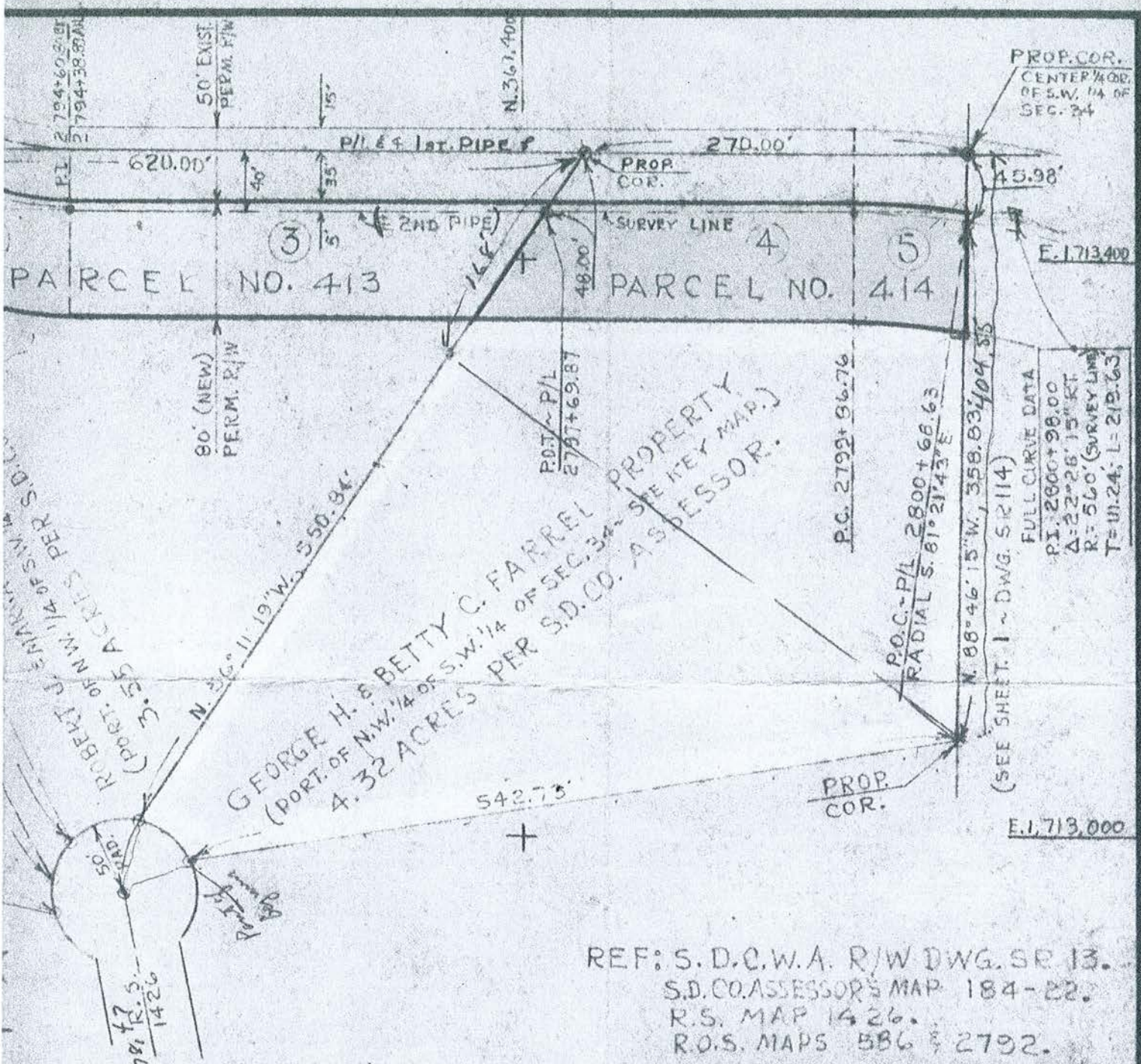
As an alternative, we propose eliminating the Las Posas Road crossing from the application. This would reduce our scope of analysis to include the Paloma/Santa Fe development only. If this alternative were pursued, we would re-examine the possibility of combining nationwide permits with an individual permit. The mitigation plan that needs to be developed could also be reduced in scope.

If we do not receive the additional information we requested within the next 60 days or a letter requesting Las Posas Road be removed from the application, we may withdraw your permit application. If you have any questions, please contact Robert Smith of my staff at (213) 452-3419. Please refer to this letter and 199916057-RRS in your reply.

Sincerely,



Mark F. Sudol/D.Env.
Chief, Regulatory Branch



NOTE: ALL BEARINGS ADJUSTED
 TO ZONE 6 CO-ORDINATE SYSTEM
 (EXCEPT WHERE INDICATED (REC) or (DD))

| REV | DATE | DESCRIPTION | BY |
|-----|------|-------------|----|
| | | | |
| | | | |
| | | | |

REF: S.D.C.W.A. R/W DWG. SR 13.
 S.D.CO. ASSESSOR'S MAP 184-22.
 R.S. MAP 1426.
 R.O.S. MAPS 586 & 2792.

SANDIEGO COUNTY WATER AUTHORITY
 San Diego, California

SECOND SAN DIEGO AQUEDUCT
SECOND PIPELINE
LANDS AND RIGHTS OF WAY
 BERNARD-FARRELL PROPERTIES
 STA 2793+24.40 TO 2800+68.63
 SHEET 6 OF 6 SHEETS

| | | |
|-----------------|------------|---------------|
| Dr. _____ | G.W. _____ | Date 5-20-69 |
| Appr. <i>AT</i> | _____ | SR 113 |



U.S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road
Carlsbad, California 92011
(760) 431-9440
FAX (760) 431-5902 + 9618



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

In Reply Refer To:
FWS-SDG-1238.5

Mr. Jerry Backoff
City of San Marcos
Planning Division
1 Civic Center Drive
San Marcos, California 92069-2918

RECEIVED
MAR 2 2018
CITY OF SAN MARCOS
PLANNING DIVISION

Re: Suspension of Habitat Loss Permits (HLP) Under the 4(d) Rule

Dear Mr. Backoff:

As stated in our previous letter dated December 18, 2006, the California Department of Fish and Game (Department) and U. S. Fish and Wildlife Service (Service), hereafter collectively referred to as the "Wildlife Agencies," are concerned about the apparent lack of progress by the City of San Marcos (City) on its Subarea Plan under the Multiple Habitat Conservation Program (MHCP). At a MHCP planning area meeting on January 11, 2006, the City outlined the steps and timeframe needed to complete a draft Subarea Plan. At a subsequent meeting on June 13, 2007, the San Diego Association of Governments and Wildlife Agencies presented a proposal for completing the remaining MCHP Subarea Plans (except for the City of Oceanside) under one Implementing Agreement (IA) and requested a written response from the cities regarding this proposal. However, the previously identified timeframe has passed and we have not yet received a draft Subarea plan or a response from the City regarding the recent proposal for completing the remaining MHCP Subarea Plans.

We are concerned about the lack of progress by the City on its Subarea Plan for the following reasons. First, this is a serious concern to the Wildlife Agencies because the City has thus far been afforded all the benefits of the interim 4(d) rule under the U.S. Endangered Species Act of 1973, as amended (Act) and has more than exceeded the loss of five percent of coastal sage scrub allowed under the rule. The 4(d) rule can only be applied to participants in the Natural Communities Conservation Planning (NCCP) program that are actively engaged in preparation of a NCCP plan. Second, some past projects in the City have been permitted separately from the Subarea Plan under section 7 of the Act. In addition, other projects are expected to be processed under section 7 of the Act in the future. This presents a variety of problems. First, the section 7 process is solely under the Service's authority and as a result does not represent the Department. In addition, the standards and process for issuing a section 7 are not identical to the section 10(a)1(B) process under the Act or the NCCP permit process for which the



Subarea Plan will be analyzed. Thus, there is an increased possibility the City will not be able to meet the minimum requirements to receive a 10(a)1(B) Permit and an NCCP Permit as more projects proceed under the section 7 process in this interim period. Lastly, further delays in completing the Subarea Plan may prevent the City from relying on the Environmental Impact Report prepared for the MHCP to satisfy the California Environmental Quality Act requirements for its Subarea Plan.

We would also like to remind the City of the important role it plays within the MHCP planning area. For example, the City of Carlsbad cannot receive coverage for San Diego thornmint (*Acanthamintha ilicifolia*), San Diego marsh elder (*Iva hayesiana*), or wart-stemmed ceanothus (*Ceanothus verrucosus*), until the City of San Marcos receives a 10(a)1(B) and NCCP permit from the Wildlife Agencies. It is also likely that none of the Cities, other than Carlsbad, would receive coverage for thread-leaved brodiaea (*Brodiaea filifolia*), until the City of San Marcos receives a 10(a)1(B) and NCCP permit from the Wildlife Agencies for this species.

Thus, in order to ensure that the loss of coastal sage scrub in the City does not become out-of-step with the preservation of coastal sage scrub to the point that the City cannot meet the minimum standards of the MHCP program nor the numerical goals expected of the City in MHCP Volumes I and II, we are compelled to suspend processing Habitat Loss Permit (HLP) requests by the City under the 4(d) rule (including *de minimus* exemptions), until sufficient progress is made on the Subarea Plan. This action suspends the ability for coastal sage scrub to be impacted within the City until the 4(d) rule is resumed. In order to resume the 4(d) rule, the following items must be completed: 1) meet with the Wildlife Agencies to ascertain whether the City is still committed to completing the Subarea Plan; 2) the City commits to a timeline for completing its Subarea Plan independently or under one IA with the other MHCP cities; and 3) there is demonstrated progress toward plan completion (i.e., each item of the timeline is completed on time). The next step will be to complete the Focused Planning Area mapping revisions and submit a draft Subarea Plan incorporating the Wildlife Agencies' comments.

Please contact Julie Miller of the Service at (760) 431-9440, and David Mayer of the Department at (858) 467-4234, to schedule a meeting.

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: Don Nue, City of Carlsbad
Jerry Hittleman, City of Oceanside
Barbara Redlitz, City of Escondido

Mr. Jerry Backoff (FWS-SDG-1238.4)

3

John Conley, City of Vista
David de Cordova, City of Encinitas
Keith Greer, SANDAG



U.S. Fish and Wildlife Service
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FAX (760) 431-5902 + 9618 FAX



California Dept. of Fish & Game
South Coast Region
4949 Viewridge Avenue
San Diego, California 92123
(858) 467-4201
(858) 467-4299

In Reply Refer to:
FWS-SDG-1238.3

Jan 6 2005

Mr. Rick Gittings
City of San Marcos
Planning Division
1 Civic Center Drive
San Marcos, California 92069-2918

Re: Progress on the City of San Marcos' Subarea Plan under the Multiple Habitat Conservation Program, City of San Marcos, California

Dear Mr. Gittings:

The California Department of Fish and Game (Department) and U. S. Fish and Wildlife Service (Service), hereafter collectively referred to as the "Wildlife Agencies," are concerned about the apparent lack of progress by the City of San Marcos on the City's Subarea Plan under the Multiple Habitat Conservation Program (MHCP). We have repeatedly requested documentation of progress from the City over the last two years without success. During the MHCP planning area meetings on June 23, 2004, and November 17, 2004, we directly asked the City for documentation of progress on the City's Subarea Plan. We indicated such documentation could be in the form of updated Focused Planning Area maps, updated text for individual chapters of the Subarea Plan, etc. However, we have not yet received any such information from the City.

We are concerned that such a lack of documentation reflects a lack of progress by the City on its Subarea Plan. This is a serious concern to the Wildlife Agencies because the City has thus far been afforded all the benefits of the 4(d) program and has more than exceeded the loss of five percent of coastal sage scrub in the City. Numerous projects have been permitted separately from the Subarea Plan under section 7 of the U.S. Endangered Species Act of 1973, as amended (Act). In addition, numerous other projects are expected to be processed under section 7 of the Act in the future. This presents a variety of problems. First, the section 7 process is solely under the Service's authority and as a result does not represent the Department. In addition, the standards and process for issuing a section 7 are not identical to the section 10(a)1(B) process under the Act or the Natural Communities Conservation Planning (NCCP) permit process for which the Subarea Plan will be analyzed. Thus, there is an increased possibility the City will not be able to meet the minimum requirements to receive a 10(a)1(B) Permit and an NCCP

proceed under the section 7



Permit the more projects that
process in this interim period.

We would also like to remind the City of the important role the City of San Marcos plays within the MHCP planning area. For example, the City of Carlsbad cannot receive coverage for San Diego thornmint (*Acanthamintha ilicifolia*), San Diego marsh elder (*Iva hayesiana*), or wart-stemmed ceanothus (*Ceanothus verrucosus*), until the City of San Marcos receives a 10(a)1(B) and NCCP permit from the Wildlife Agencies. It is also likely that none of the Cities, other than Carlsbad, would receive coverage for thread-leaved brodiaea (*Brodiaea filifolia*), until the City of San Marcos receives a 10(a)1(B) and NCCP permit from the Wildlife Agencies for this species.

As you recall, we met often in the summer of 2001 with Jerry Backoff and David Acuff to identify at least some of the changes to the City's Subarea Plan that would be necessary to ensure the City could receive a 10(a)1(B) Permit and an NCCP Permit on its plan. The City committed to numerous text changes and additional standards in the text. We also identified some key parcels where preserve design was integral to ensuring a functional preserve that could be maintained in perpetuity in the City of San Marcos. Unfortunately, we have seen no written or other form of documentation to show that such progress has been made by the City.

Thus, in order to ensure that the loss of coastal sage scrub in the City of San Marcos does not become out-of-step with the preservation of coastal sage scrub to the point that the City cannot meet the minimum standards of the MHCP program nor the numerical goals expected of the City in MHCP Volumes I and II, we may have to suspend processing Habitat Loss Permit (HLP) requests by the City (this would include the suspension of the *de minimus* exemption process), unless sufficient progress is made on the plan. In order to avoid suspension of the 4(d) program, which would suspend the ability for coastal sage scrub to be impacted within the City until the 4(d) program is resumed, the Wildlife Agencies need all three of the following items completed: 1) Therese O'Rourke and Don Chadwick meet with you to ascertain whether the City is serious about completing the Subarea Plan permitting process; 2) the City commits to a timeline for when specific items will be provided to the Wildlife Agencies; and 3) there is demonstrated progress toward plan completion (i.e., the first item of the timeline is complete).

Please contact Janet Stuckrath of the Service at (760) 431-9440 extension 270, and Nancy Frost of the Department at (858) 637-5511, to schedule a meeting with the individuals identified above.

Sincerely,

//s//

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

//s//

Donald R. Chadwick
Senior Environmental Scientist
California Department of Fish and Game

cc: Jerry Backoff, City of San Marcos
Don Rideout, City of Carlsbad

Jerry Hittleman, City of Oceanside
Barbara Redlitz, City of Escondido
John Conley, City of Vista
David de Cordova, City of Encinitas
Janet Fairbanks, SANDAG



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In Reply Refer To:
FWS-SDG-1238.4

Dec 18 2006

Mr. Jerry Backoff
City of San Marcos
Planning Division
1 Civic Center Drive
San Marcos, California 92069-2918

Re: Progress on the City of San Marcos' Subarea Plan under the Multiple Habitat Conservation Program, City of San Marcos, California

Dear Mr. Backoff:

The California Department of Fish and Game (Department) and U. S. Fish and Wildlife Service (Service), hereafter collectively referred to as the "Wildlife Agencies," are concerned about the apparent lack of progress by the City of San Marcos (City) on its Subarea Plan under the Multiple Habitat Conservation Program (MHCP). At the last MHCP planning area meeting on January 11, 2006, the City outlined the steps and timeframe needed to complete a draft Subarea Plan. However, the timeframe identified in the meeting has passed and we have not yet received a draft Subarea plan from the City.

We are concerned about the lack of progress by the City on its Subarea Plan for the following reasons. First, this is a serious concern to the Wildlife Agencies because the City has thus far been afforded all the benefits of the interim 4(d) rule under the U.S. Endangered Species Act of 1973, as amended (Act) and has more than exceeded the loss of five percent of coastal sage scrub allowed under the rule. The 4(d) rule can only be applied to participants in the Natural Communities Conservation Planning (NCCP) program that are actively engaged in preparation of a NCCP plan. Second, some past projects in the City have been permitted separately from the Subarea Plan under section 7 of the Act. In addition, other projects are expected to be processed under section 7 of the Act in the future. This presents a variety of problems. First, the section 7 process is solely under the Service's authority and as a result does not represent the Department. In addition, the standards and process for issuing a section 7 are not identical to the section 10(a)1(B) process under the Act or the NCCP permit process for which the Subarea Plan will be analyzed. Thus, there is an increased possibility the City will not be able to meet the minimum requirements to receive a 10(a)1(B) Permit and an NCCP Permit as more projects proceed under the section 7 process in this interim period. Lastly, further delays in completing the



Subarea Plan may prevent the City from relying on the Environmental Impact Report prepared for the MHCP to satisfy the California Environmental Quality Act requirements for its Subarea Plan.

We would also like to remind the City of the important role it plays within the MHCP planning area. For example, the City of Carlsbad cannot receive coverage for San Diego thornmint (*Acanthamintha ilicifolia*), San Diego marsh elder (*Iva hayesiana*), or wart-stemmed ceanothus (*Ceanothus verrucosus*), until the City of San Marcos receives a 10(a)1(B) and NCCP permit from the Wildlife Agencies. It is also likely that none of the Cities, other than Carlsbad, would receive coverage for thread-leaved brodiaea (*Brodiaea filifolia*), until the City of San Marcos receives a 10(a)1(B) and NCCP permit from the Wildlife Agencies for this species.

Thus, in order to ensure that the loss of coastal sage scrub in the City does not become out-of-step with the preservation of coastal sage scrub to the point that the City cannot meet the minimum standards of the MHCP program nor the numerical goals expected of the City in MHCP Volumes I and II, we may have to stop processing Habitat Loss Permit (HLP) requests by the City under the 4(d) rule (including *de minimus* exemptions), unless sufficient progress is made on the Subarea Plan. In order to avoid revocation of the 4(d) rule, which would suspend the ability for coastal sage scrub to be impacted within the City until the 4(d) rule is resumed, the following items must be completed: 1) meet with the Wildlife Agencies to ascertain whether the City is still committed to completing the Subarea Plan; 2) the City commits to a timeline for completing its Subarea Plan; and 3) there is demonstrated progress toward plan completion (i.e., each item of the timeline is completed on time). The next step will be to complete the Focused Planning Area mapping revisions and submit a draft Subarea Plan incorporating the Wildlife Agencies' comments.

Please contact Janet Stuckrath of the Service at (760) 431-9440 extension 270, and David Mayer of the Department at (858) 467-4234, to schedule a meeting.

Sincerely,

//s//David Zoutendyk, for
Therese O'Rourke
Assistant Field Supervisor
U.S. Fish and Wildlife Service

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

cc: Don Nue, City of Carlsbad
Jerry Hittleman, City of Oceanside
Barbara Redlitz, City of Escondido
John Conley, City of Vista
David de Cordova, City of Encinitas
Keith Greer, SANDAG



United States Department of the Interior
Fish and Wildlife Service

Ecological Services

Carlsbad Fish and Wildlife Office

2730 Loker Avenue West

Carlsbad, California 92008



IN REPLY REFER TO: FWS-SD-1238.1

Mr. Jerry Backoff
Planning Division Director
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069

Re: Comments on the Draft City of San Marcos Subarea Plan

Dear Mr. Backoff:

The U.S. Fish and Wildlife Service (Service) has reviewed the draft Natural Community Conservation Plan for the City of San Marcos (Subarea Plan), dated June 2, 2000. Many of the following comments were discussed at a meeting held at our office on November 8, 2000, which included staff from the City of San Marcos, California Department of Fish and Game, and the Service.

General Comments

1. The plan should include an executive summary that contains a brief description of the San Marcos subarea, the purpose and need, and other key elements of the subarea plan.
2. Anticipated levels of take of species proposed for coverage in the subarea plan need to be quantified. In addition, the subarea plan should include expected conservation levels within the subarea and within the Multiple Habitat Conservation Program (MHCP) subregion. The plan should clearly describe the overall conservation goals for both species and habitats.
3. The species list should identify those species conserved by the subarea plan, and those species conserved by the MHCP. In addition, the species list should only include those species analyzed in the MHCP.
4. Because the subarea plan is a component of the standards, regulations, and requirements of the MHCP, the subarea plan should be consistent with the MHCP. Furthermore, the City should describe the role of their subarea plan in MHCP.
5. Preserve management and monitoring guidelines should be consistent with the management and monitoring guidelines in the MHCP. The preserve management and

monitoring section in the subarea plan is too superficial and needs to be expanded. The City needs to identify specific commitments it will make to monitor and manage the preserve and outline a time line for development of the management plan. The City also needs to describe the funding source for preserve management and monitoring. The plan should identify a position within the city that will be responsible for implementing the plan.

6. The City needs to develop an interim resource protection strategy outlining the project review process and specific criteria that will need to be met before projects are approved. The subarea plan should more fully explain how the City's Slope Density Ordinance will provide interim resource protection, particularly in the focused planning area (FPA).
7. The City's proposed preserve seems to be based on the Slope Density Ordinance and from existing or proposed developments. The subarea plan should describe how the City will contribute to the acquisition and management of parcels to be included in the preserve. How much public land will be included in the preserve, and where are these public lands located?
8. The overall format of the subarea plan is difficult to read. For example, tables need to be placed within two pages after they are first cited in the text.

Specific Comments

- Cover page: The title of the document should be the Natural Community Conservation Plan. The environmental document for the MHCP is a joint EIR/EIS.
- Page 1 - Public Access Guide to the Subarea Plan: This section is difficult to follow. A standard table of contents format would be easier to read.
- Page 9 - Purpose, section 1.1: The Subarea Plan will form the basis for an Implementing Agreement, which will be the contractual agreement between the City of San Marcos and the Wildlife Agencies that ensures implementation of the plan, and provides the basis for issuance of take authorizations and assurances from State and Federal agencies.
- Page 10 - Section 1.3: Expand. Describe how many species will be covered by the plan, including the number of federal and state listed species, and other sensitive species.
- Page 10 - Section 1.4: Abbreviations and definitions should not be embedded in the text. Abbreviations and definitions should either be included immediately after the table of contents on a separate page, or at the end of the document as an appendix.
- Pages 12 and 13: Use the MHCP definition for Biological Core and Linkage Area,

Core, County Core, Corridor, Critical Location, and FPA.

- Page 17 - Section 2.1: “This Subarea Plan covers the City limits and portions of the sphere”. Describe the “sphere”
- Page 17 - Section 2.2.1, Major Land Uses: This section needs to be more fully developed.
- Page 19 - Section 2.3, Local Zoning Ordinances: Will policies and standards be enforced only in the FPA?
- Page 19 - Section 2.3, Resource Conservation Areas: How do these differ from lands within the FPA?
- Page 19 - Section 2.3.2, Maximum Disturbance Envelopes: This section might be more appropriately named “Target Conservation Levels within the FPA”. How will these conservation levels be enforced once the Implementing Agreement (IA) is signed? What policies are in place to prevent or minimize land within the proposed FPA from being incrementally developed during the interim, before the IA is signed?
- Page 19 - Section 2.3.4, Wetlands: This section should apply to all wetlands within the City, not just wetlands associated with San Marcos Creek. Also, appropriate state and federal permits should be a condition of project approval by the City.
- Page 20 - Section 2.3.5, Expanded project review: Outline specific findings that need to be met for project approval.
- Page 20 - Section 2.3.7, Brushing and Clearing: How will the City enforce brushing and clearing regulations? The City’s policies on brushing and clearing for fire protection should be consistent with the memorandum of understanding the Wildlife Agencies have with San Diego County fire districts.
- Page 20 - Section 2.4, Identification and Survey of Biological Resources: This section should be rewritten and expanded upon.
- Page 21, Figure 2: Provide a description in the text and a map showing the core gnatcatcher conservation area.
- Page 22, Vegetation Communities: Vegetation communities should be listed in a table.
- Page 23, Table 1: Values in the table should match those in MHCP. Also, notes at the top of the page should be included as footnotes. The reader will not understand “Done Deal Properties”. Change title to: “Projects That Have Received Take Authorizations Through a Separate Permit”.

- Page 24, Sensitive Plant and Animal Species: Use the MHCP definition.
- Page 24, Table 2: Expand to include federal and state status. Include a map showing sensitive species locations within the City. How were the numbers in the table derived?
- Page 28: Define floating corridor.
- Page 30, bottom of page: Define hard-line project.
- Page 31, Brookfield and Brouwer properties: These properties should be identified on Figure 5.
- Page 31, Closed Landfill and adjacent properties paragraph: Delete “allowing for take of the gnatcatcher elsewhere in the County”.
- Page 32, section 2.5.3.3: It is unclear why six bridge crossings are necessary, please explain.
- Page 39- 46, Tables 4 and 5: Include the number of acres conserved as well as the percentage conserved. In addition, the table needs specificity. For example, does 50% conserved mean that 50% of the total acres on-site will be conserved or 50% conservation of the native habitats on-site?
- Page 49, section 3.2, Land Uses within and Adjacent to the Preserve: Agriculture, grazing, and golf courses should not be located in areas to be preserved.
- Page 51, Equestrian trails: Where are these trails planned? Please provide a map in the document.
- Page 51, Golf course at San Elijo Hills: A golf course within the FPA is not an acceptable land use within a preserve.
- Page 52, 3rd bullet: Future roads and other infrastructure should not be located within the preserve.
- Page 53, section 3.2.2, Land Uses Adjacent to the Preserve: What are the requirements for buffers adjacent to the preserve?
- Page 54, top of page: The entire “safe harbor” section should be deleted.
- Page 54, section 3.3.1, Guidelines for Project Design in Focused Planning Areas: This section should include more specificity. For example, how will edge effects be minimized or non-native species be controlled?
- Page 55, section 3.3.3, Roads and Bridges: The City’s Circulation Element Map

identified road corridors. Every effort should be made to meet circulation element objectives while avoiding and minimizing impacts to the FPA. In addition, how are the seven proposed bridge crossings consistent with the goals and policies of the subarea plan? Provide a map of the locations of the proposed crossings.

- Page 56, top of page: Future streets and driveways should not be located within the preserve.
- Page 57, Recreational Crossings: Where will the proposed recreational crossings be constructed?
- Page 59, Equipment storage, fueling, and staging areas: These areas should be located in disturbed upland sites.
- Page 65, Table 10: Delete the right side of the table. Include minimum ratios for impacts to wetlands.
- Page 66, Table 11: Include the total number of acres on-site.
- Page 67, section 4.3.1, Compensation Mitigation: What are the criteria necessary to determine if the area has long-term viability?
- Page 68, Public Facility Fee: Provide details.
- Page 71, section 5.6: Any preserve boundary adjustments should require wildlife agency concurrence. Also, describe the difference between a “boundary adjustment” and a “minor amendment”.
- Page 72, section 5.7: The City is responsible for initiating and preparing major amendments to the subarea plan. Major amendments should be consistent with laws and regulations in effect at the time when the amendment is being reviewed, not at the time when the subarea plan is approved.
- Page 77, second paragraph: The City should consider preparing a fire management plan prior to permit issuance.
- Page 78: Who will be responsible for predator and exotic species control?
- Page 81, section 7.1.5: The San Marcos subarea plan is not a “stand alone” document. Rather, the subarea plan is a component of the MHCP subregional plan.
- Page 81, section 7.1.6, Provisions for Unforeseen Circumstances: This section needs to clearly define changed circumstances and the steps that will be taken to address changed circumstances.

We have also included annotated pages from the “NCCP for the City of San Marcos.” Please

contact Kathleen Brubaker at (760) 431-9440 if you have any questions regarding these comments.

Sincerely,

Nancy Gilbert
Assistant Field Supervisor

cc: Bill Tippetts (CDFG)