

#8

E3

Kiss, Lisa

From: Bryand Duke [BDuke@dfg.ca.gov]
Sent: Tuesday, January 03, 2012 1:54 PM
To: Koller, Garth
Cc: Kiss, Lisa
Subject: Draft EIR City of San Marcos General Plan Update (SCH# 2011071028)

Mr. Koller,

The California Department of Fish and Game appreciates the opportunity to comment of the draft EIR entitled Draft EIR City of San Marcos General Plan Update (SCH# 2011071028).

However, due to major holidays (3) and vacation time for Department personnel, which occurred during the review period, the Department is requesting additional time to review the draft EIR and General Plan. The Department is requesting that the City of San Marcos accept any comments that the Department may have regarding the review of the draft EIR no later than January 13, 2012 instead of January 4, 2011.

E3-1 We greatly appreciate your consideration!

Sincerely,

Bryand

Bryand M. Duke, Ph.D.
Staff Environmental Scientist
Habitat Conservation Program
California Department of Fish and Game
South Coast Region
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San Diego, CA 92123

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E3 California Department of Fish & Game

- E3-1 This comment, received on January 3, 2012, requests a time extension from the City in order for the California Department of Fish and Game (CDFG) to provide comments on the proposed General Plan and Draft EIR. The City granted this request, giving CDFG an extension until January 13, 2012 to submit a comment letter. The City did not receive a letter by the identified date, and therefore, no further response is required.

E4 ORIGINAL

RECEIVED

JAN 04 2012

SAN MARCOS
PLANNING DIVISION



San Diego County Archaeological Society, Inc.

Environmental Review Committee

2 January 2012

To: Mr. Garth Koller, Principal Planner
City of San Marcos
1 Civic Center Drive
San Marcos, California 92069-2918

Subject: Draft Program Environmental Impact Report
City of San Marcos General Plan Update
GPA 09-105, R 09-145, EIR 11-44

Dear Mr. Koller:

E4-1 I have reviewed the cultural resources aspects of the subject DPEIR on behalf of this committee of the San Diego County Archaeological Society.

Based on the information contained in the DPEIR, we have the following comments:

- E4-2 1. We suggest the addition to the COS-11 policies an additional one; that the City become a Certified Local Government (CLG). For information on the CLG Program, see http://ohp.parks.ca.gov/?page_id=23581. Various other cities in the county, and the County itself, participate in the program and use it to advance preservation of historic resources within their jurisdiction.
- E4-3 2. Page 4-29 mentions that the City utilizes the Mills Act. We note that the California Office of Historic Preservation's list of Mills Act contacts (see <http://ohp.parks.ca.gov/pages/1074/files/millsactcontacts.pdf>) does not include the City of San Marcos. We suggest that the appropriate contact information be provided to OHP, so that the City is kept apprised of Mills Act issues.
- E4-4 3. Table 3.5-2 lists historic resources in and near the City. Some of those sites, and perhaps others that have not yet been evaluated, are currently within the unincorporated area and are therefore under the County's jurisdiction. This raises a concern associated with future annexations as the City does not, to our knowledge, have cultural resources specialists on staff. No offense to the City is intended, but this not-uncommon situation means that, for projects which involve historic properties or archaeological sites, staff is dependent upon the applicant's consultant's presentation. The County's Department of Planning and Land Use, on the other hand, has at least three cultural resources professionals on staff, so that applications and the applicants' reports get reviewed by a qualified independent person. Any future annexations from County to City jurisdiction need to address how equivalent

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E4 San Diego County Archaeological Society, Inc.

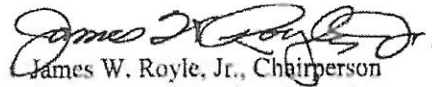
- E4-1 Introductory comment noted. No further response is required.
- E4-2 Comment noted. The City appreciates the suggestion. The goals, policies, and Implementation Programs of the General Plan support the preservation of historic resources and commit the City to continued actions consistent with Federal and State regulations. The General Plan specifically references the California Register of Historical Resources (CRHR) and the National Register of Historic Places in the *Cultural and Historic Resource Inventory* section starting on page 4-20. Section 3.5.1 of the Final EIR states, "Although there are fewer recorded historic architectural resources, the documented history of early settlement in the San Marcos Valley suggests that there may be several resources associated with that development that may be potentially eligible for the CRHR or the National Register of Historic Places (NRHP) as many buildings that were built during the early years of the city will soon be eligible for consideration as historic resources." Section 3.5.2 continues on to identify the CRHR and NRHP, among other regulations, as important documents comprising the required regulatory setting for cultural resources.
- E4-3 Comment noted. The City does utilize the Mills Act; appropriate steps will be taken to ensure the City continues to be apprised of Mills act issues.
- E4-4 Comment noted; the City does not currently employ a cultural resource specialist. The City currently has no plans for annexation of Sphere of Influence properties. Future annexation may occur as initiated by individual property owners. Should annexation be requested/occur in the future, the City would address applicable requirements for independent cultural resource assessment and ensure appropriate analysis/preservation steps are taken consistent with the General Plan and Mitigation Measures of the Final EIR. See applicable sections as outlined in response E1-6.

E4-4
Cont.

independent assessment of cultural resources would be provided. One approach would be for the City to retain the services of a qualified cultural resources professional, different from the applicants', for assessing projects in the annexed area.

Thank you for the opportunity to participate in the public review of the DPEIR for this project.

Sincerely,



James W. Royle, Jr., Chairperson
Environmental Review Committee

cc: AECOM
SDCAS President
File

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27.

E5

SAN LUIS REY BAND OF MISSION INDIANS

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January 13, 2012



Garth Koller
Senior Planner
Planning Division
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069

VIA ELECTRONIC MAIL
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**RE: TRIBAL COMMENT LETTER REGARDING THE DRAFT GENERAL
PLAN AND ENVIRONMENTAL IMPACT REPORT 2011 FOR THE CITY
OF SAN MARCOS**

Dear Mr. Koller:

We, the San Luis Rey Band of Mission Indians ("Tribe") understand that the City of San Marcos ("City") has developed a Draft General Plan 2011 ("Draft GP") and Environmental Impact Report ("EIR") and that the official comment period ended on January 5, 2012. We appreciate the City's extension of the official comment period to the Tribe until today, January 13, 2012. See CEQA Guidelines Section 15207. Accordingly, please accept our comments and include them in the Draft GP and EIR official record.

E5-1

As you are aware, we are a San Diego County Tribe whose traditional territory includes the current cities of Oceanside, Carlsbad, Vista, San Marcos and Escondido, as well as the communities of Fallbrook and Bonsall. As you also know, we are always concerned about the preservation and protection of cultural, archaeological and historical sites within all these jurisdictions.

Any policies or procedures that would govern improvements to infrastructure or development of the City's lands that may disturb the native soil, necessarily raises concerns regarding the identification and protection of Native American cultural resources, specifically those of Luiseño descent. As the City is aware, the Tribe is resolute in their protection of their cultural resources.

Comment Letter on the City of San Marcos' Draft General Plan 2011
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E5 San Luis Rey Band Of Mission Indians

- E5-1 Introductory comment noted. The City is also in support of protecting cultural resources as noted in the Cultural and Historical Resources section of the General Plan, page 4-20. The City's commitment to cultural and historical conservation and preservation are reflected in Policy COS-2.5, and Implementation Programs COS-8.1 and COS-8.2.

E5-2

The Tribe understands that even though no direct development is being proposed by the Draft GP and EIR, the policies created and supported through the Draft GP would necessarily prescribe the acceptable land uses throughout the city and the protections of our cultural resources therein.

E5-3

The City of San Marcos is home to many Native American cultural resources as evidence in the sheer quantity and quality of known sites. However, what is absent in the Draft GP, is the increased likelihood of discovering even more Native American cultural resources subsurface within the City of San Marcos' borders. This likelihood is supported by the Tribe's own experiences in your jurisdiction, as well as the City's neighboring jurisdictions. Given the above, the San Luis Rey Band of Mission Indians believes that it is imperative that we be a part of any policy development in regards to the protection and preservation of Native American cultural resources within the City's jurisdiction.

E5-4

L THE DRAFT GP'S CONSERVATION AND OPEN SPACE ELEMENT GOALS AND POLICIES SHOULD ACKNOWLEDGE AND EMBRACE THE CITY'S UNIQUE ARCHAEOLOGICAL AND NATIVE AMERICAN CULTURAL RESOURCES.

As stated in the Draft GP, the citizens of San Marcos have expressed their wishes for more open space and conservation of the City's non-renewable and renewable resources. Native American prehistoric cultural resources are a non-renewable resource of the City and should be preserved and protected in Open Space.

E5-5

Currently, the Cultural and Historic Resource Inventory recited in the Draft GP is absent of any ethnographical information that makes San Marcos a unique prehistoric habitation area. The Tribe would like to see more discussion about the prehistoric inhabitants of the City and how they have contributed to society's development.

II. THE DRAFT GP SHOULD REFLECT THE CITY'S COMMITMENT TO THE PROTECTION AND PRESERVATION OF NATIVE AMERICAN CULTURAL RESOURCES IN ALL PROJECTS THAT MAY AFFECT THE NATIVE SOIL AND ARE IN CULTURALLY SENSITIVE AREAS, NOT JUST IN DESIGNATED NEW GROWTH AREAS.

E5-6

The Draft GP and EIR both state that Native American monitoring shall be limited to areas of new growth, such as in the Twin Oaks Valley. This is due to the misunderstanding that Native American artifacts and/or human remains will only be located in "known" or "undisturbed" land. Such inference, however, can no longer be concluded as the City has done in the past. The areas in which are subject to redevelopment, for example with the City, were built during time periods when recordation and protection of sacred sites did not exist. Therefore, the absence of "known" cultural sites in a developed, urban location is not uncommon for this very reason. Yet, as urban governments and school districts endeavor into redevelopment projects

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E5-2 Comment noted. The Land Use Plan, Figure 5-2, and policies and implementation programs of the General Plan are intended to provide a land use and regulatory framework for the future of the City. The existing regulatory setting complemented by the policies and Implementation Programs of the General Plan will further protect cultural resources as applicable.

E5-3 The City acknowledges the history and cultural context of San Marcos as related to Native American resources. This is reflected in the Brief History of the City section within Chapter 1 Introduction of the General Plan.

The General Plan process included extensive public participation and outreach. All resident and interested parties were properly legally notified of the process and invited to collaborate in the formulation of the goals, policies and land use plan for the General Plan update.

E5-4 Goal COS-2 and associated policies explicitly state the City's commitment to open space and limited resources. The Conservation and Open Space Element specifically addresses non-renewable resources and seeks to provide a framework for identifying, conserving, and protecting limited, historical, and cultural resources see Chapter 4 Conservation and Open Space Element of the General Plan. The City supports protection of cultural resources as noted in the Cultural and Historical Resources section of the General Plan, page 4-20. The City's commitment to cultural and historical conservation and preservation are reflected in Goal COS-2, Policy COS-2.5, and Implementation Programs COS-8.1 and COS-8.2.

E5-5 See response E5-4 for a discussion of the General Plan's commitment to cultural resource conservation. The City appreciates the suggestion of further documenting San Marcos as a unique prehistoric habitation area, however this is not within the scope of the General Plan at this time. Section 3.5.1 of the Final EIR discusses the existing environmental setting and further details on the cultural and ethnographic resources of San Marcos.

E5-6 The General Plan document applicable to the entire City, to guide and regulate future activities within the whole of the City; see Chapter 1 Introduction of the General Plan for further discussion of the purpose of the General Plan. The Final EIR is an environmental analysis of the implementation of the General Plan; see section 1.3 for further discussion on the scope and purpose of the EIR.

This comment represents a misunderstanding of the intentions of the General Plan. Where the General Plan and/or EIR state "future development," this shall apply to any form of expansion, redevelopment, or new development that is subject to permitting, public review and CEQA required environmental analysis. "Future development" does not limit any actions denoted in the General Plan to "new" development. As an example, Policy COS-3.3 of the Conservation and Open Space Element specifically references, "with new development and redevelopment project applicants." Furthermore, CEQA environmental analysis thresholds are applicable to "new development and redevelopment" as

specifically documented in table ES-3 in the Executive Summary of the Final EIR.

Section 3.5.4 of the Final EIR provides environmental analysis of potential adverse change in significance of archaeological resources including ethnographic resources. This discussion includes analysis of disturbance of human remains and Native American burial protections. The Final EIR acknowledges that *new development and redevelopment projects* that result from the implementation of the General Plan would be required to adhere to the laws and regulations discussed in section 3.5.2. Consistent with CEQA requirements, individual development projects would be reviewed for project-specific impacts, including cultural/paleontological resources, during any required environmental review. If project-specific significant impacts are identified, applicable mitigation measures will be placed on the project as conditions of approval.

CEQA thresholds for significance are based on specific criteria, for which the Final EIR complies and makes rational findings of significance based on the ethnographic record of the area in relation to the thresholds. Mitigation Measures of section 3.5.5 provide additional cultural resources safeguards including but not limited to early cultural involvement in the development/redevelopment process, compliance with Federal and State regulations, and commitments to avoidance.

today, the experience of finding "inadvertent discoveries" of sacred sites and/or Native American burial sites within previously developed urban areas is becoming more and more common place.

These urban areas, such as in the cities of Los Angeles and San Diego, are not alone. In fact, inadvertent discoveries of Native American sacred artifacts have been discovered in San Marcos in heavily developed urban areas of the City that had been constructed in the early 1940's and '60's. Therefore, the City must re-evaluate their findings that Native American cultural resources will only be likely to be found in undisturbed or minimally disturbed areas subject to new growth.

III. THE DRAFT GP AND EIR'S NATIVE AMERICAN CULTURAL RESOURCE ANALYSIS WAS COMPLETED IN 2009, SINCE THAT TIME A MULTITUDE OF "UNKNOWN" SITES HAVE BEEN IDENTIFIED INCLUDING IN THE TWIN OAKS VALLEY AND IN "URBAN" SETTINGS WITHIN THE CITY.

E5-7

As stated in Section 3.5.4, *Analysis of Environmental Impacts*, of the Draft GP EIR, a cultural resource records search was completed in 2009. This is unfortunate given the fact that a multitude of sites of prehistoric habitation have been discovered and recorded within the City's sphere of influence, including unique archaeological sites within previously developed urban settings. These relatively new discoveries continue to reflect the City's rich Native American history. Prehistoric village sites in San Marcos have provided the Native American and scientific community with information about how our ancestors lived and have taught us more about the emerging acorn economy in the region. As stated before, most of our Luiseño history has been erased from the "build out" of cities throughout North County when no protections were afforded to their preservation. This has changed and continues to change by local cities and governments, including San Marcos, acknowledging and embracing their Native American histories. Therefore, due to these recent discoveries, the City may want to update their record search to present day.

IV. NATIVE AMERICAN MONITORS SHOULD BE UTILIZED AT THE PRELIMINARY STAGES OF DEVELOPMENT, INCLUDING REDEVELOPMENT, AND NOT SOLELY AT THE CONSTRUCTION PHASE OF DEVELOPMENT OR REDEVELOPMENT.

The Tribe commends the City in acknowledging the importance of protecting and preserving its cultural resources from its earliest inhabitants, our ancestors.

E5-8

a. Mitigation Measures Propounded By The City In The Draft GP Must Be More Inclusive Of Native American Monitors And Not Limited To Utilization In Only Undeveloped Parcels Or New Growth Designated Areas.

Future development and redevelopment projects will, without a doubt, result in a wide range of construction and ground and/or earth disturbing activities. Moreover, these ground-disturbing activities, associated with infill, redevelopment, and/or expansion of infrastructure,

*Comment Letter on the City of San Marcos' Draft General Plan 2011
San Luis Rey Band of Mission Indians*

E5-7 Comment noted. The record search will not be updated for the purposes of the General Plan or Final EIR. Future record searches will be required of future individual development projects as applicable. The record search provided in the General Plan and EIR are current as of 2009 and not intended to be an exhaustive list. Individual development projects would be required to conduct record searches and be reviewed for project-specific impacts, including cultural/paleontological resources, during any required environmental review. If project-specific significant impacts are identified, applicable mitigation measures will be placed on the project as conditions of approval.

E5-8 As a clarification of the comment, Mitigation Measures are included in the Final EIR. Native American tribe consultation and monitoring are an important part of the environmental analysis, conservation and preservation of cultural resources within San Marcos. Native American involvement is specifically addressed in Mitigation Measures CR-1, CR-3, CR-4, and CR-6. These Mitigation Measures will be applicable to all proposed projects within the City as defined by the CEQA Guidelines; this is not limited to "new" development or new growth areas. See response E5-6 for further discussion regarding future development.

Mitigation Measures in section 3.5.5 of the Final EIR address review, surveying, and plans for avoidance during the, "planning, design, and environmental review phases of individual development projects." See section 3.5.4 for environmental analysis regarding cultural resources, and section 3.5.5 for specific Mitigation Measures which reduce potential impacts.

have the potential to impact cultural resources. With additional growth and increased development intensities, the extent of impacts to cultural resources today and in the future will be greater than that experienced in the past as more resource-sensitive land would be disturbed over time.

In fact, it is the Tribe's opinion that even minimal grading activities will have significant and/or substantial impact on cultural resources. It is also important to emphasize that when redevelopment projects, or intensification of land uses, take place it is still possible that cultural resources will be unearthed and discovered. It is for this important reason that Native American monitors must always be present alongside a qualified archeologist during all previously undeveloped land projects, as well as all previously developed projects. As stated earlier, it is crucial for the City to recognize and acknowledge that local Native American tribes must be involved in the protection and preservation of their cultural resources and Native American monitors must be present in the field to ensure their ancestors' and their past is preserved.

b. Local Native American Tribes And Native American Monitors Must Be Involved In The Early Stages Of Development Evaluation.

E5-8
Cont.

Native American monitors are very important in the protection and preservation of cultural resources. The Tribe acknowledges that the Draft GP EIR is inclusive of Native American monitors. However, the Draft GP EIR is limiting in "when" the Native American monitor should be a part of the process of protecting and preserving Native American cultural resources. The City is rich in cultural resources and the potential for discovery of subsurface resources is high, therefore the presence of a Native American monitor, as well as a certified archaeologist are necessary and justified when projects may involve ground disturbing activities are being evaluated, such as during pedestrian surveys and site evaluations. The sooner a Native American monitor is utilized, the sooner a developer can assess the possible impacts to Native American cultural resources and avoid costly re-design costs.

As we have conveyed to the City previously, Native American monitors are trained in their individual culture's history and spiritual beliefs. They understand an artifact's use and importance to their ancestors. Their analysis and interpretation of an unearthed artifact is based on their education, their belief system and their respect for those who came before them. Native American monitors undeniably add value to and support for the accompanying archaeologist. Each offer different cultural values and perspectives, but a Native American monitor's first and primary duty is to protect and preserve the Native American cultural resource. We therefore respectfully request that Native American monitors be included in the process of protecting our cultural resources throughout the stages of development, including but not limited to the early stages of analysis and environmental assessment.

E5-9

c. The City's Acknowledgement That Any Unearthed Cultural Resources Be Returned To The Native American Community For Determination Of Repatriation Is Appreciated.

*Comment Letter on the City of San Marcos' Draft General Plan 2011
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E5-9 Commented noted. The City appreciates the acknowledgment and support. This comment does not pertain to the environmental analysis in the EIR. Therefore no further response is required.

E5-9
Cont.

As acknowledged by the City, local Native American tribes must have a voice as to the future of any and all unearthed artifacts and/or cultural resources. It is our Tribe's belief that all artifacts, small or large, must be repatriated to the earth from which they came. They are not to be kept on a shelf in a laboratory or museum. Hence, in order to treat these unearthed artifacts with the respect and dignity they deserve, they must be returned to the earth. Repatriation is supported by California Public Resources Code Section 5097.9916 and in *People v. Van Horn* (1990) 218 Cal.App.3d 1378. The City of San Marcos should, therefore be commended for acknowledging through their Draft GP that any discovered Native American cultural resource shall be returned to the local Native American tribe and not curated at non-Native American institutions.

V. THE DRAFT GP'S POLICIES AND PROCEDURES MUST INCLUDE THE PERSPECTIVE OF THE NATIVE AMERICAN COMMUNITY AS IT RELATES TO THE PROTECTION AND PRESERVATION OF OUR CULTURAL RESOURCES.

E5-10

Even though the Tribe did not participate in the Notice of Preparation phase of the Draft GP, we did commence government to government discussions with the City relating to future impacts to our Luiseño cultural resources and the City's commitment in the protection and preservation of said resources. As we have communicated before to the City, our cultural resources cannot be replaced. They are therefore considered to be nonrenewable resources. Preserving and protecting these invaluable resources of our ancestors' past is crucial for our tribe. And, unlike other cultures of today, our history is still being discovered and understood.

As the City is aware, the Tribe actively participates in preserving and protecting our history. Our Tribe sincerely believes that keeping a transparent and open line of communication between the City and the local tribal governments a better understanding between our two cultures will be forged and true cooperation and trust with one another will be achieved. Without transparency or open communication, mistrust between our governments will continue to persist.

It is our Tribe's recommendation and request that any proposed policy and/or procedures affecting known and unknowns cultural resources continue to be created in consultation with the local Native American tribes in order to better promote open and transparent communication between the local Native American tribes and the City's various agencies and/or departments.

VI. THE DRAFT GP AND EIR FAILS TO TAKE INTO ACCOUNT THE PROBABLE RECOMMENDATION OF AVOIDANCE BY THE MOST LIKELY DESCENDANT.

E5-11

According to the Draft GP EIR at pages 3.5-8 through 3.5-9, no mitigation measures are required in regards to the discovery of Native American remains due to the fact that existing laws and regulations would reduce the potential for encountering human remains and ensure the appropriate disposition of human remains if so encountered. This couldn't be farther from the

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- E5-10 Commented noted. The City will continue to consult with Native American tribes pursuant to Federal and State regulations as applicable and supports continued cooperation. Appropriate public and stakeholder notification will continue as projects are proposed and actions are undertaken by the City.
- E5-11 Avoidance of cultural resources is addressed in the General Plan in the Preserve Cultural and Historical Resources section starting on page 4-29.

The Final EIR, section 3.5.4 page 3.5-8 states, "Although these policies illustrate the City's intent to maintain its archaeological resources, they do not require or prevent specific actions related to conservation of these resources, and therefore it is possible that new development associated with the proposed General Plan may result in a significant impact to the City's archaeological resources, and as a result, mitigation of impacts is required." This section continues on to reference Public Resources Code section 5097.98 specifically for the provisions for treatment of Native American human remains and concludes that actions regarding future development consistent with the laws and regulations in section 3.5.2 would result in less than significant impacts. Section 3.5.5 identifies the above cited required Mitigation Measures and addresses avoidance options/opportunities in CR-1, CR-2, and CR-8.

The General Plan goals and policies noted in response E5-4 and E5-8, supported by the required Mitigation Measures CR-1, CR-2, and CR-8 of the Final EIR clearly state the City's commitment to preservation of cultural resources, directly with Native American tribes, and consistent with Federal, State and local regulations.

E5-11
Cont.

truth. The laws that protect Native American remains and associated grave goods are necessary in the respectful and dignified treatment of our ancestor's remains. However, the application of those laws would be more substantial if the City of San Marcos stood prepared to follow and support the recommendation of the Most Likely Descendant as presented in California Public Resources Code Section 5097.98. Avoidance of the area of discovery is the most common recommendation of Most Likely Descendants. If the Tribe is designated as the Most Likely Descendant it will always be our recommendation that the developer avoid the area in which the remains were unearthed and that the area be placed into protected open space. Knowing this, the City of San Marcos should therefore make it clear in the City's Draft General Plan EIR that if Native American remains are found, then those areas in which they are found should be avoided and placed into protected open space as the City's first priority and preference.

**VII. WE ACKNOWLEDGE AND APPRECIATE THE CITY'S
COMMITMENT TO ADVOCATE AVOIDANCE AND REDESIGN OF A
DEVELOPMENT PROJECT IF SAID PROJECT MAY IMPACT NATIVE
AMERICAN CULTURAL RESOURCES.**

E5-12

Culture refers to a people's way of life: their language; their art; the way they understand and perceive the world around them; their spirituality and value system; their social activities; and their forms of interaction within their group and with outsiders. Culture is passed down and taught to the next generations. It is not always found in books, but through ceremonies and songs. It can't always be measured in centimeters and ounces. It is made up of beliefs and emotions. Native American cultural resources (artifacts and features) are more than objects to be measured and described. They need and deserve to be acknowledged and treated with respect. Their value to answering the unknown questions of our history is priceless. And once they are destroyed, they are gone forever.

When our Luiseño or prehistoric features are threatened or our ancestors' remains are in danger of being treated dishonorably and with contempt, the Native American community must entrust the governing body of the jurisdiction they are found to protect them. This is why avoidance of significant cultural resources is always the preferred choice of the Native American community and the State of California. Knowing this, we respectfully acknowledge and commend the City of San Marcos for acknowledging that the City will support and prefers avoidance of the area, support redesign of the proposed development and lastly, will support the preservation of the resource into protective open space if our Native American cultural resources and/or ancestral remains are threatened with destruction.

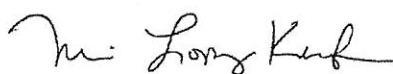
E5-12 Commented noted. The City appreciates the acknowledgment and support. This comment does not pertain to the environmental analysis in the EIR. Therefore no further response is required.

VIII. CONCLUSION

E5-13

We appreciate this opportunity to provide comments and share our concerns regarding the City's Draft General Plan and EIR. We thank you for your continuing assistance in protecting our invaluable Luiseño cultural resources.

Sincerely,



Merri Lopez-Keifer
Tribal Counsel
San Luis Rey Band of Mission Indians

cc: Melvin Vernon, Tribal Captain
Carmen Mojado, Secretary of Government Relations and President of Saving Sacred Sites

E5-13 Concluding statement. No further response is required.

#27.

Kiss, Lisa

From: Merri Lopez-Keifer [lopezkeifer@gmail.com]
Sent: Friday, January 13, 2012 1:59 PM
To: Koller, Garth; Kiss, Lisa
Cc: Mojado Carmen; Melvern@aol.com
Subject: Tribal Comments on City of San Marcos Draft General Plan and EIR
Attachments: SanMarcosDraftGeneralPlanandEIR.pdf

Dear Garth,

Attached please find the comments from the San Luis Rey Band of Mission Indians regarding the Draft General Plan and EIR for the City of San Marcos. Thank you for the extension of the public comment period until today your understanding is greatly appreciated.

If there are any questions regarding the content of the letter, or if I can be of further assistance, please do not hesitate to contact me.

Best,
Merri

Merri Lopez-Keifer
Tribal Counsel
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lopezkeifer@gmail.com

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E6

#13.



ERIC GIBSON
DIRECTOR

County of San Diego

DEPARTMENT OF PLANNING AND LAND USE

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January 5, 2012

City of San Marcos
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Via email to gkoller@san-marcos.net and lkiss@san-marcos.net

COMMENTS ON THE DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE CITY OF SAN MARCOS GENERAL PLAN UPDATE

Dear Mr. Koller:

E6-1

The County of San Diego has received and reviewed the City of San Marcos Draft General Plan and draft Program Environmental Impact Report (PEIR) dated November 21, 2011 and appreciates this opportunity to comment. In response to these documents, the County has comments that identify potentially significant issues that may have an effect on the unincorporated lands of San Diego County.

County Department of Planning and Land Use (DPLU) and Department of Public Works (DPW) staff have completed their review and have the following comments regarding the PEIR:

LAND USE AND PLANNING

E6-2

1. The San Marcos land use plan sphere of influence includes the unincorporated communities of Twin Oaks Valley (North County Metro) and San Dieguito. The recently adopted versions of these maps can be found on the County web site at the following link:
<http://www.sdcountry.ca.gov/dplu/generalplan.html>

The County concurs with the conclusions of the PEIR on Page 3.10-17 that there are differences in Land Use Maps between the recently adopted County General Plan and the draft San Marcos General Plan, and that the San Marcos designation would only apply in areas once they are annexed by San Marcos.

E6 County of San Diego, Departmentt of Planning & Land Use

- E6-1 This comment provides opening remarks and no further response is required.
- E6-2 The Draft EIR analysis assumes the “proposed project” to identify impacts associated with the proposed General Plan. This includes the City’s identified designation within its Sphere of Influence. Please note that the “no project” condition assumes land use in this area which is consistent with the regional transportation plan; which should be consistent with the County’s General Plan designations, which should be adequate for comparing the differences between the no project scenario (e.g. the previous City General Plan and County General Plan designations) and the with project scenario (e.g. the proposed land uses within the General Plan).

E6-2
Cont.

The County recommends that the PEIR analyze the higher density between the County and San Marcos General Plans to ensure that all potential impacts are evaluated. In most areas, the draft San Marcos General Plan applies the same or higher intensity designations. However, there are some areas in the Twin Oaks Valley planning area where it appears that the land uses on the County General Plan allow a higher density than the draft San Marcos Plan. This is based on the County's interpretation of the density allowed by the Agricultural Residential designation on the draft San Marcos Plan. The County is uncertain of the density allowed by this designation because it is described in terms of either dwelling units per parcel or dwelling units per acre in different sections of the draft Land Use Element, as shown below.

Page	Description
2-9	Table 2-2: 1 du/parcel based on location and slope
2-17	Table 2-3: 0.125–1.0 dwelling unit (du) per parcel based on location and slope
2-29	Table 2-5: 0.125–1.0 dwelling units per acre

The areas where it appears the County General Plan allows a higher density than the draft San Marcos Plan are those areas in Twin Oaks Valley designated Semi-Rural 1 (one dwelling unit per 1,2,4 acres, depending upon slope) in the southeastern portion and Semi-Rural 2 (one dwelling unit per 2,4,8, acres, depending upon slope) in the southern portion.

TRANSPORTATION AND CIRCULATION

E6-3

2. The PEIR (Pg. 3.16-1) notes that the San Marcos circulation network is connected to a larger regional system and that surface streets connect San Marcos to adjacent cities and the unincorporated area. Despite San Marcos' connectivity to adjacent jurisdictions, the PEIR for the draft General Plan provides no assessment of the potential transportation impacts to roadway facilities within its Sphere of Influence and/or outside the City of San Marcos. There are various roadways within the current unincorporated area which are adjacent to and are affected by traffic from the City of San Marcos. The PEIR should assess any direct and cumulative impacts and identify appropriate mitigation for all roadway segments and key intersections located along the following roadways on the County of San Diego's Mobility Element network:

- Deer Springs Road
- Twin Oaks Valley Road
- Buena Creek Road
- South Santa Fe Avenue

- E6-3 The primary purpose of the transportation impact assessment was to determine whether the Mobility Element of the proposed General Plan is consistent with the Land Use Element of the General Plan, as required by State law. The traffic study, in other words, was designed to ensure that the City's transportation planning is adequate to accommodate the growth projected to result from the City's land use planning. The City does not need to consider intersections outside the City in order to achieve this purpose. By its very nature, the Mobility Element only addresses traffic conditions within the boundaries of the City.

The City will consider potential impacts on intersections outside the City before approving specific development projects. For each proposed project, the City will determine a specific "study area" that could potentially be impacted by the project's traffic. Depending on the nature and location of a particular project, the study area may or may not include intersections outside the City. If the study area does extend outside the City, the City will model the project's impacts on intersections outside the City. The traffic study for the General Plan PEIR does not attempt site-specific analysis because no entitlements are under consideration, and site-specific analysis is not necessary or appropriate in a general plan EIR.

The EIR here provides a general analysis appropriate for a general plan, by focusing on whether the Mobility Element is adequate to serve the development described in the Land Use Element. Each future project will receive site-specific CEQA review, including but not limited to analysis of any potential traffic impacts that a specific project may have on intersections outside the City.

Additionally, the analysis performed in this assessment utilized the SANDAG North County Traffic Analysis Model, which is consistent with the SANDAG regional model. As such, land use assumed for areas outside of the City have essentially accounted for in neighboring cities and within the unincorporated area. Therefore, traffic projections outside of the City should generally be consistent with previous modeling efforts in the region.

The General plan affects the county roadways as follows (note, volumes from the SANDAG North County Traffic Analysis Model):

- Deer Springs Road – The GP increases traffic on this roadway by approximately 300 daily trips. The NCTD model estimates the total ADT volume to be 38,200. The County's General Plan identifies this segment as a 6-lane arterial and the segment would operation acceptably.
- Twin Oaks Valley Road – The GP increased traffic on this roadway by approximately 400. The NCTD model estimates the total ADT volume to be 37,300.

The County's General Plan identifies this segment as a 6-lane arterial and the segment would operation acceptably.

- Buena Creek Road – The GP increases the traffic on this roadway by approximately 1,700. The NCTD model estimates the total ADT volume to be 3,600. The County's General Plan identifies this segment as a 4-lane major roadway and the segment would operation acceptably.
- South Santa Fe Avenue – The GP decreases traffic on this roadway by 200 daily trips. The NCTD model estimates the total ADT volume to be 28,100. The County's General Plan identifies this segment as a 4-lane major roadway and the segment would operation acceptably.
- El Norte Parkway – The GP increases traffic on this roadway by approximately 2,800 daily trips. The NCTD model estimates the total ADT volume to be 29,200. The County's General Plan identifies this segment as a 4-lane major roadway and the segment would operation acceptably.
- Rock Springs Road – The GP decreases traffic on this roadway by 1,500 daily trips. The NCTD model estimates the total ADT volume to be 8,200. The County's General Plan identifies this segment as a 4-lane major roadway and the segment would operation acceptably.
- Nordahl Road – The GP decreases traffic on this roadway by 300 daily trips. The NCTD model estimates the total ADT volume to be 10,500. The County's General Plan identifies this segment as a 4-lane major roadway and the segment would operation acceptably.
- Elfin Forest Road – Could not obtain – off of the model plots. However, since land use in this area has not significantly changed, there should be minimal changes in traffic on Elfin Forest Road. The NCTD model estimates the total ADT volume to be 4,300. The County's General Plan identifies this segment as a 2-lane light collector and the segment would operation acceptably.
- State Route 78 - The largest increase on SR-78 is between Rancho Santa Fe Road and San Marcos Boulevard, which shows an increase of 5,300 ADT (or an increase of approximately 3%). Most of the volumes on SR-78 change by less than 1% of the total ADT. The City's Public Facility Fees (PFF) contains a State Route 78 component. Development projects contribute towards the PFF. Additionally, the General Plan is consistent with the regional transportation plan related to improvements along State Route 78.

Given the assessment above, the General Plan is not expected to result in impacts to County facilities.

- El Norte Parkway
- Rock Springs Road
- Nordahl Road
- Elfin Forest Road
- State Route 78

- | | | |
|------|----|--|
| E6-4 | 3. | The General Plan/PEIR should note that future development projects within the City of San Marcos should also propose mitigation for significant traffic impacts to roadway facilities within the unincorporated area. Potential mitigation measures for significant traffic impacts can include traffic signal improvements, physical road improvements, street re-striping and parking prohibitions, fair share contributions toward identified, funded and scheduled projects, and transportation demand management programs. Fairshare contributions to the County's Transportation Impact Fee (TIF) program should be considered to mitigate cumulative traffic impacts. The fairshare contributions should be based upon the amount of project trips that will be distributed onto County roadways. |
| E6-5 | 4. | The PEIR should reference and use the County's Guidelines for Determining Significance (modified February 19, 2010) for any traffic analysis of direct and cumulative impacts on roadway segments and intersections within the County's jurisdiction. |
| E6-6 | 5. | Roadway Classifications (PEIR: Figure 3.16-1) do not readily correlate with the Street Typologies used for determining Roadway Segment Capacity (Table 3.16-2). The "roadway classification" / "street typology" should be consistent throughout the General Plan/PEIR. |
| E6-7 | 6. | Tables displaying the LOS for roadways should also include a column designating the Street Typology for each roadway. The LOS for a roadway is not based only on the number of lanes, but also the lane configuration (i.e. Street Typology). |
| E6-8 | 7. | The General Plan (Pg. 3-6) Mobility Element's focus on "Street Typologies" is not reflected in Table 3.16-3 of the PEIR. The "Classifications" noted in the table appear to be from a previous nomenclature for roadway types. |
| E6-9 | 8. | Note 3 of Table 3.16-2 (Pg. 3.16-9) states that the volumes for the "Freeway" Typologies are the "Per lane capacities". The per lane capacities, which range from 1,440 for LOS C and 2,200 for LOS F, appear to be low for the Daily Roadway Segment Capacity. |

- E6-4 Future development projects will be required to assess facilities outside of the City. Feasible mitigation measures for significant impacts identified will be identified as appropriate. For cumulative impacts, the City will evaluate fair share contributions and/or potential participation in the County's TIF program, as appropriate. As such, the City will coordinate with the County for the potential reciprocal mitigation for County project to City facilities. The City welcomes the opportunity to explore a reciprocal agreement with the County which addresses mitigation requirements for development projects which impact the other's jurisdiction.
- E6-5 See Response E6-3 regarding assessment of facilities outside of the City. For development-specific assessment, the City will require analysis of County facilities, as appropriate. That impact analysis will utilize the most recent version of the County's impact analysis criteria, consistent with SANDAG requirements, for identifying impacts on County facilities.
- E6-6 Figure 3.16-1 depict roadway capacities and LOS as identified under the Existing General Plan and the previous roadway capacity thresholds. Table 3.16-2 depicts the street typology capacities consistent with the proposed General Plan designations and is not intended to apply to the existing condition/previous General Plan. The capacities used in the Existing Conditions assessment are shown below:

Classification	Typical Lane Configuration	Level of Service				
		LOS A	LOS B	LOS C	LOS D	LOS E
Prime Arterial	7 to 8 lanes ⁽¹⁾	29,200	40,800	58,300	64,200	70,000
Prime Arterial	6 lanes	25,000	35,000	50,000	55,000	60,000
Major Arterial	5 lanes ⁽¹⁾	18,000	25,000	35,000	40,000	45,000
Major Arterial	4 lanes	15,000	21,000	30,000	35,000	40,000
Secondary Arterial	5 lanes ⁽¹⁾	12,500	17,500	25,000	31,300	37,500
Secondary Arterial	4 lanes	10,000	14,000	20,000	25,000	30,000
Secondary Arterial	3 lanes ⁽¹⁾	7,500	10,500	15,000	18,000	22,500
Collector	2 lanes plus TWLTL ⁽²⁾	5,000	7,000	10,000	13,000	15,000
Collector	2 lanes ⁽³⁾	2,500	3,500	5,000	6,500	8,000

Source: SANTEC/ITE Guidelines for Traffic Impact Studies in the San Diego Region, 2000.

⁽¹⁾ Roadway classification with this lane configuration is not included in the City Circulation Element; LOS thresholds were calculated based on V/C ratios of the daily threshold volumes for the corresponding roadway classification.

⁽²⁾ TWLTL = Two-Way Left-Turn lane (center lane)

⁽³⁾ With fronting commercial or residential property

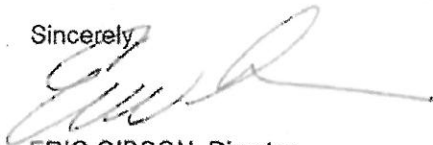
- E6-7 Street typologies are identified in Table 3-2 of the Mobility Element and are represented on Figure 3-1 of the mobility element. These are the street typologies used in the environmental assessment, consistent with the capacities in Table 3.16-2 of the PEIR.
- E6-8 See E6-6 response. Table 3.16-3 reflects the existing condition which does not reflect the "Street Typologies" identified in the mobility element. As noted in the footer of Table 3.16-3, the assessment is consistent with capacities identified in SANTEC/ITE guidelines.

- E6-9 The 2,200 capacity is for LOS E, not LOS F. The identified capacities are consistent with capacities used for freeways within the State of California, with the exception that some jurisdictions assume 2,300 capacity for LOS E for multilane freeways. The identification that the capacities are low represents a conservative assessment for the EIR.

Mr. Koller
January 5, 2012
Page 4 of 4

- E6-10 | 9. The "existing daily roadway volumes" (ADTs) in Table 3.16-3 (Pg.3.16-10) do not correlate with the ADT for "Existing Conditions" in Table 3.16-8 (Pg.3.16-39). The PEIR should clarify what existing conditions are being referred to, in Table 3.16-8.
- E6-11 | 10. Table 3.16-8 appears to have some errors/typos (e.g. – Acceptable Capacity of 35,000 for a 6 lane facility on Rancho Santa Fe Road; or 42,500 for a 6 lane facility on San Marcos Boulevard).
- E6-12 | 11. The graphic (Pg. 3-14) for a Class II Bikeway (Bike Lane) incorrectly displays the same graphic for a Class I Bikeway (Bike Path).
- E6-13 | 12. The Figures showing Level of Service (e.g. Fig.3.16-1) do not designate a legend/color for LOS E.
- E6-14 | The County of San Diego appreciates the opportunity to continue to participate in the environmental review process for this project. We look forward to receiving future environmental documents related to this project or providing additional assistance at your request. If you have any questions regarding these comments, please contact Mindy Fogg at (858) 694-3831 or by email at mindy.fogg@sdcounty.ca.gov.

Sincerely,



ERIC GIBSON, Director
Department of Planning and Land Use

e-mail cc:

Dustin Steiner, Deputy Chief of Staff, District 5
Megan Jones, Group Program Manager, DCAO
Nael Areigat, Department of Public Works
Richard Chin, Department of Public Works, Transportation Division
Twin Oaks Community Sponsor Group
Mindy Fogg, Land Use/Environmental Planner, Department of Planning and Land Use
Priscilla Jaskowiak, Administrative Secretary, Department of Planning and Land Use

- E6-10 This is a typo in the table. It should reference the “No Project Condition”, not the Existing Condition.
- E6-11 The table correctly identifies the capacity of a 6-lane Rancho Santa Fe Road at 55,000 (35,000 is the 4-lane segment capacity for this facility). The 42,500 capacity is the multi-way capacity for San Marcos Boulevard.
- E6-12 Comment noted. The Mobility Element graphic will be updated accordingly to correctly show a Class II facility.
- E6-13 It is assumed this figure reference should be 3.16-2. There is no LOS E as none of the facilities operate at LOS E under Existing Conditions.
- E6-14 This comment provides closing remarks and no further response is required.

14.

E7

Michael Hunsaker
115 Equestrian Court
San Marcos, Ca 92069

January 4, 2012

Garth Koller, Principal Planner
Development Services Department
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069

Subject: Comments on Draft Environmental Impact Report

Dear Sir,

RECEIVED

JAN 6 5 2012

PLANNING DIVISION

Need for Recirculation

After careful review of the Draft EIR, I have numerous flaws, omissions and concerns. I believe that many of these individually and collectively call for a recirculation of the Draft under Civic Code Section 21092.1. From the CEQA information website <http://ceres.ca.gov/planning/ceqa/>.

E7-1

Recirculation: PRC Section 21092.1 and Guidelines Section 15088.5 *require* an EIR to be recirculated to responsible and trustee agencies for consultation and new public notice given whenever significant new information has been added to the EIR after the draft has been available for review, but prior to certification of the final EIR. The review and consultation period is the same as for a draft EIR. "Significant new information" is defined in Guidelines Section 15088.5.

There are two new developments which must be dealt with in a new draft EIR and three deficiencies which will require reconsideration in any case. For these latter three reasons, this Draft EIR is premature.

E7-2

1. Redevelopment is a necessary tool with its eminent domain features in building an urban core to the City. Redevelopment has recently been struck down in the courts. With no eminent domain, another mechanism must be specified and considered. The Special Consideration Area 1 which was the primary focus of City Staff proposals is now in doubt. If the City wishes to pursue some other mechanism for creating an urban core, then it must so specify and show how the environment and the quality of life of the citizens will be impacted.

E7-3

2. In the last Council meeting a new agreement was reached with the Supervisors Association, City employees are now allowed to work on leave with the very entities they are supposed to regulate. They are then allowed to rejoin the City in their original capacity. Such a construction directly creates conflicts of interest and ultimately in widespread corruption no matter how moral or ethical the Staff is presently. As such it violates many of the laws on conflicts of interest in the State including the Brown Act. The selection of a program General Plan which places undue discretion on the Staff to decide on its own authority without sufficient public consideration and notice is inappropriate and possibly illegal.

The City of San Marcos is unique in that the City is allowed to own commercial enterprises, particularly land development and rentals. The City is also undergoing severe financial hardship, which according to the last Chief Financial Officer, is the result of expensive labor contracts with City employees. The structural deficit was

E7 Michael Hunsaker

E7-1 In response to the comment calling for recirculation of the Draft EIR: A lead agency is required to recirculate a Draft EIR for additional public review when “significant new information” is added after the initial public review. New information added to a Draft EIR is not “significant” unless the EIR is changed in a way that deprives the public of meaningful opportunity to comment on a significant environmental effect, or a feasible way to mitigate or avoid a significant effect that is not adopted. (CEQA Guidelines §15088.5(a))

Significant new information requiring recirculation includes, for example, a disclosure showing that:

- A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but is not adopted.
- The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review was precluded.

Recirculation is not required when the new information added to the EIR merely clarifies, amplifies, or makes insignificant modification to an adequate EIR. (CEQA Guidelines §15088.5(b)).

Information Added to the EIR

The Final EIR does add new information in response to public comments on the Draft EIR. This information will be listed here for reference in the final iteration of this Response to Comment Appendix. It should be noted that none of the information provided by this commenter or information added to the Final EIR in response to public comments constitutes significant new information requiring recirculation of the Draft EIR.

E7-2 The comment addresses redevelopment mechanisms. The response to this comment assumes “Special Consideration Area 1” referenced in the comment is intended to read “Study Area 1” which will be referenced for the remainder of this response.

The General Plan does not commit the City or individual land owners to any future redevelopment projects. The purpose of creating an urban core within Study Area/Focus Area 1, 2 and 3 is to provide a supportive business and residential mixed use setting that capitalizes on existing and future transportation corridors. Land use changes within Study Area/Focus Area 1, 2 and 3 were chosen after extensive public involvement identified evolving land use trends and community goals for this area that represent the best potential for redevelopment, change in land use, and/or change in activity intensification. Any future redevelopment, change in land use, and/or change in activity intensification will be market driven occurring under property owner-initiated action without intended use of redevelopment funding or eminent domain. The City does not specify, or intend to utilize, a forced mechanism for creating an urban core within Study Area/Focus Area 1, 2 and 3, or any other portion of the City. "Future redevelopment," referenced in the General Plan (page 2-24) and/or the EIR, within this or other areas of the City will be market driven. This does not represent a deficiency of the Draft EIR and/or General Plan and does not constitute significant new information requiring recirculation of the Draft EIR.

- E7-3 The comment addresses an agreement with the Supervisors Association that causes a perceived conflict of interest regarding City employees. This comment does not pertain to the environmental analysis in the EIR. Therefore no further response is required and this information does not constitute significant new information requiring recirculation of the Draft EIR.

E7-3
Cont.

determined to be about \$5,000,000 per year and reserves are being available depleted will soon be exhausted. Thus the City Staff is in a state of conflict of interest. Its policies must be totally transparent and complete. The conflicted Staff will be motivated to favor (unconsciously at best) to favor its own financial interests.

E7-4

3. With the Housing element undefined and leaving the matter up to County to define is an abrogation of responsibility to define what the most important component of a General Plan. Further, an important feature of an EIR is a careful consideration of local conditions. The insistence that the City should blindly Follow the County dictates no matter how inappropriate to the City is not supportable particularly in light of the use of a Program General Plan and the conflicts of interest the City is nominally tolerating.

E7-5

4. Incredibly after two years of work, the Planning Department has not released a finalized zoning ordinance with the basic zoning ordinances. Without these definitions, the entire project/program is impossible to assess as to its appropriateness, completeness, legality or cost. One cannot read a book if the words are not written. The zoning definitions are important elements of property rights too important to be left up to the virtual discretion of a conflicted City Staff. These definitions have too much impact for a meaningful EIR and a General Plan which is properly and openly presented to the public per legal requirements. CEQA specifically does not allow general policies to be substituted for measureable, quantitative actions. Should the City fail to preserve agricultural lands, for example, or protect the citizen's rights to choose their own housing and maintain that housing option legally and financially, it would be rightfully subject to corrective litigation and the forcible retraction of the Program structure.

E7-6

If eminent domain is pursued, rezoning provides perverse financial incentives for City Staff to pursue purely selfish goals. Rezoning potentially eliminates many of the protections homeowners have with conforming properties. With conforming properties, a business must be provided with an alternative business site within two miles, an allowance for lost business, consultant support for making the move, payment of all moving expenses, etc. Similar protections exist for homeowners forcibly evicted from their homes. With non-conforming properties, the property owner's compensation is strictly limited to the best allowable use of the land permitted by the zoning. The property owner is also responsible for the cost of demolishing his/her homes and businesses. Rezoning has immense destructive potential. This lack of transparency and openness is cause for deep concern.

E7-7

5. The Plan violates Smart Growth principles. Smart Growth requires the balance of critical elements of housing, transportation, industrial base, commerce, agriculture and critical resources such as water in an environmentally sound and sustainable basis. The proposed General Plan squanders water resources, imposes housing elements of steadying degraded apartment buildings, does not adequately address infrastructure needs, is detrimental to agriculture, and limits the City's needed industrial base. These factors degrade the quality of life and endanger the sustainability of the community. If the City is economically unsustainable, then the environment is unsustainable.

Overall Deficiencies and Objections

E7-8

Various deficiencies are summarized below with additional details provided on some topics in subsequent sections: Basically, the conclusions of thee Draft EIR is that the environmental negative impacts are high density is unavoidable is untrue. Lower density, more efficient, more environmentally friendly and higher quality of life options exist. These "unavoidable" negative impacts can be significantly mitigated and better, more sustainable options exist.

- E7-4 The comment addresses the “undefined” state of the Housing Element. The incorporated 2005-2010 Housing Element was adopted and certified by the California Department of Housing and Community Development in April 2006. Since certification of the Housing Element, California State Senate Bill (SB) 375/575 has realigned the update cycle for local housing elements (Cal. Gov't Code §§ 65588(b). and (e)(7)); thus the City's Housing Element is required to be updated and certified within 18 months of the adoption of SANDAG's Regional Transportation Plan (RTP), or by April of 2013 under a separate effort. Incorporation of a certified Housing Element into the General Plan does not represent a deficiency of the Draft EIR and/or General Plan and does not constitute significant new information requiring recirculation of the Draft EIR.
- E7-5 In response to the comment, please refer to Section 3.2.4 for the analysis of the proposed General Plan's consistency with existing agricultural zoning, and Section 3.10.4 for consistency analysis with existing land use plans/zoning ordinance. The update of the Zoning Ordinance was undertaken concurrently with the General Plan and is intended for completion/adoption in 2012. Please refer to Implementation Measure LU-1 of the Final EIR; this implementation measure requires amendment/update of the City's existing Zoning Ordinance for consistency with the General Plan. It is standard practice for municipalities to execute the update of the Zoning Ordinance following General Plan adoption to ensure all applicable land uses and requirements are properly and adequately addressed and there is no legal requirement to prepare and adopt an update General Plan and Zoning Ordinance concurrently. The current status of the Zoning Ordinance does not represent a deficiency of the Draft EIR and/or General Plan and does not constitute significant new information requiring recirculation of the Draft EIR.
- E7-6 This comment does not pertain to the environmental analysis in the EIR, instead referring to eminent domain. Please see response E7-5 regarding updating of the Zoning Ordinance to be consistent with the General Plan and land uses. Land use changes made by the General Plan were a result of extensive public involvement identified evolving land use trends and community goals for this area that represent the best potential for redevelopment, change in land use, and/or change in activity intensification. Extensive public and land owner notification was executed. Therefore no further response is required and this does not constitute significant new information requiring recirculation of the Draft EIR.
- E7-7 In response to the comment, the General Plan addresses smart growth principles regarding land use, mobility, open space, resource management and planning for alternative forms of transportation. Land use and transportation/mobility changes, including the addition of mixed use land uses, within Study Area/Focus Area 1, 2 and 3 were strategically planned to correlate with SANDAG's Smart Growth Concept Map to take advantage of the identified mixed use transit corridors. Please see page 2-8 of the General Plan which addresses smart growth principles. Please see page 2-10 and 2-11 of

the General Plan which address mixed use, infill development and complete streets which coalesce to balance housing, business/industrial, and transportation. The Mobility Element, starting on page 3-4, addresses the D's of Smart Growth and their relation to the planning and future structure of mobility within the City. Please see the following locations within the EIR that address the issues of concern:

- Water resources – pages 3.9-15 through 3.9-18; Mitigation Measures HWQ-1 through HWQ-12 are identified to reduce potential impacts on hydrology and water quality to a less than significant level.
- Housing, apartment buildings, industrial base – The addition of Mixed Use 4 land uses provides an additional land use for the establishment and operation of industrial uses within the City. General Plan land use designations are identified in Table 2.0-1; they are not substantially different in density/intensity from current land use regulation. See Section 3.13.4 for a discussion of impacts related to population growth and housing displacement.
- Infrastructure – See Section 3.14.4 for a discussion of water infrastructure and supply (page 3.14-21 through 3.14-33), wastewater infrastructure (page 3.14-33), stormwater drainage facilities (page 3.14-35), and energy (3.14-35). The Final EIR determined that after mitigation impacts related to public services and utilities would be less than significant; see Section 3.14.6.
- Agriculture – See Section 3.2.4 for a discussion of impacts related to agricultural resources. The Final EIR determined that after mitigation impacts related to agricultural resources would be less than significant; see Section 3.2.6.

This comment does not constitute significant new information requiring recirculation of the Draft EIR.

E7-8 Refer to responses E7-9 through E7-42 which address comment concerns by topic.

Water:

- E7-9 1. The plan will not work for its projected population growth. There is not enough water. Even without the projected population growth, the wholesale cost of water is expected to jump from about \$690 per acre-foot to over \$2,000 in the next three to five years. The present population just under 85,000 could jump to 156,229 under this "plan". With the unsustainable high density proposed, the makings for a city-wide disaster are unavoidable. Further, some Indian tribes are seeking to obtain ownership of critical water supplies. Such conditions are not addressed at all.
- E7-10 2. The Draft EIR mentions that the Vallecitos Water District (VWD) and all the other water agencies servicing San Marcos are required to develop Urban Water Management Plans. At no point does the Draft EIR note that this very limited and essential resource will be adequate. Any reasonable plan will couple growth in accordance with supply. This plan does not. It would allow as a Program for the growth to go ahead regardless. It merely states that it will coordinate with the water districts to update their plans as the program progresses. Yet the Draft EIR has very definitive figures of build out and the proposed higher density allowances. Rationally and reasonably, these calculations should have been done before this Draft was released. Any expansion should be directly tied to community water impacts.
- E7-11 3. The City has been pursuing an active drilling program for irrigation of landscaping. While worthy for watering parks, the City has been remiss in not employing water conservation in their commercial and municipal operations. Water conservation was not pursued even during drought periods. In fact, the City profits immensely by charging its tenants 95% of the rate of pure potable water for irrigating the landscaping the City specified. Water is an example where the City has placed its monetary interests above the needs to conserve. Thus, its track record for placing community interests first is not reassuring.
- E7-12 4. Flooding is also an issue. The City has been pursuing a Creekside water project to improve drainage for its profitable commercial ventures there and for future expansion. To accomplish this goal, considerable City funds have been diverted for such development despite the environmental damage imposed by ripping out the wetlands. Permits and approvals have not been forthcoming because of the proposed damage. The willingness of the City to pursue profit making ventures above environmental concerns makes the use of ill-defined generalities doubly questionable.
- E7-13 5. The statements that global warming will induce drought in California is unsupportable assertions. Heating of the earth will produce more rain, not less. Further, there is more reason to believe that droughts will be relieved in San Diego. Merely saying that all climate change is bad is overly simplistic. There should be the objective realization that we do not know whether climate change will help or hurt. As such, basing policies on unknowns which have such dire consequences for the economy are at best ill advised.

Smart Growth and Balanced Communities

- E7-14 1. The use of mixed-use facilities is widely advocated under Smart Growth principles. While essentially a quaint 19th Century European village concept appropriate for isolated mountains with a plentitude of water, it is inappropriate for a 21st Century global economy in relatively flat, California dry environment. The mixed-use facilities have over ten years of experience in San Marcos. They have failed economically to fulfill their commercial expectations. They have become essentially pure apartment buildings. City Manager Malone pointed out that in the present economy mixed-use facilities will be likely be largely residential tenancy. As such, the promotion of mixed-use is of doubtful value.
- E7-15 2. A more sustainable model is needed – and exists. Rather than expose residents to problems with odors and noise of mixed-use developments, the apartments should be designed to be better living quarters with shops and restaurants concentrated in shopping centers as now the case.

- E7-9 In response to your comment, population growth under the General Plan land uses is projected as 121,446 for the City of San Marcos and 128,040 for the Planning Area; see Table 2.0-3 for details. The General Plan addresses water Service and supply issues on pages 2-38 and 2-39 of the Land Use and Community Design Element, Chapter 2. The EIR addresses water resource and supply issues in Section 3.14.4. Per the aforementioned section, the Final EIR states that long-term supply of water to the planning area from VWD, VID, OMWD, and Rincon is uncertain. Although all four agencies indicate adequate water supplies based on their (Urban Water Management Plans) UWMPs, water from Metropolitan makes up a substantial portion of their supply... Actions described in the proposed General Plan, Metropolitan's IRP, and the districts' water management plans present a range of activities being undertaken by multiple agencies to ensure reliable water supplies that meet the future needs of the planning area."

The Final EIR determined that impacts related to water resource groundwater supply are less than significant. These issues are further addressed in Section 3.14.4 and 4.2. The Draft EIR determined that a potentially cumulatively considerable, significant and unavoidable water supply impact would occur. While the water purveyors for the planning area predict that there will be adequate water supply to support development pursuant to the General Plan, there is uncertainty in the long-term provision of adequate water supply nonetheless. The proposed General Plan in combination with other future cumulative projects that increase demand for water supply could result in decreases in imported water from MWD. The issue is statewide, however, and would result from the cumulative nature of projects within and beyond the region.

The City has no knowledge of "some [Native American] tribes [seeking] to obtain ownership of critical water supplies" and the commenter has provided no evidence supporting this statement.

- E7-10 In response to this comment, population growth under the General Plan land uses is projected as 121,446 for the City of San Marcos and 128,040 for the Planning Area. See Table 2.0-3 for details. The General Plan includes the following policies and Implementation Programs addressing water conservation: policies LU-2.5, LU-13.1, LU-13.2, LU-13.3, COS-4.7, COS-5.1, COS-5.2, and COS-5.3; Implementation Programs LU-8.6, LU-8.7, COS-5.3, COS-5.4, COS-5.5, and COS-7.4.

See Section 3.14.4 Water Supply for a discussion of individual water district master plans addressing water supply and provision. As addressed on page 3.14-29, "although implementation of proposed General Plan policies would result in water conservation and the requirement for new developments to provide proof of adequate water supply, and the districts are taking action to improve supply, uncertainty surrounding future water supply to the planning area and southern California as a whole results in a significant water supply impact." The Final EIR determined that after implementation of Mitigation

Measures PSU-1, PSU-2, PSU-3, and PSU-4, the water supply impact at this program level EIR would be reduced to less than significant project –level effect; see page 3.14-39. The above stated Mitigation Measures in conjunction with Mitigation Measures GHG-2, GHG-5, GHG-10, HWQ-2, HWQ-3, HWQ-4, HWQ-9, , PSU-5, PSU-6, and PSU-7 address water conservation efforts, water supply issues, and tying development directly or through fees to the provision of adequate water supply and infrastructure. However, even with these mitigations measures in place, the Draft EIR determined that a potentially cumulatively considerable, significant and unavoidable water supply impact would occur.

E7-11 This comment does not pertain to the environmental analysis in the EIR. Therefore no further response is required. As a courtesy, refer to the following policies, implementation measures and Mitigation Measures addressing irrigation.

- General Plan Policies COS-4.7 and COS-5.3, and
- General Plan Implementation Measures LU-8.7, COS-5.3, and COS-5.5
- EIR Mitigation Measures HWQ-2, HWQ-4, and PSU-1

E7-12 In response to your comment, the General Plan and EIR address flooding issues and relate such issues to environmental protection. Goal S-2 of the Safety Element and associated policies S-2.1 and S-2.2 prioritized well-maintained regional flood control facilities and private responsibility for maintenance/repair of structures to resist flood damage. Policy COS-2.2 relates the conservation of open space to, among other priorities, flood hazard management and resource protection. Section 3.9.4 Flooding and Inundation Hazards specifically pertains to environmental analysis of flood hazards. The Draft EIR determined impacts from flooding would be less than significant.

E7-13 In response to your comment, staff was unable to find evidence in the Draft General Plan or Draft EIR that either document suggests global warming will induce drought in California. Discussions of global warming within the documents are provided to enhance general knowledge of the basis for policy and planning decisions and inform the public on current National, State and regional understandings of the issue.

E7-14 This comment does not pertain to the environmental analysis in the EIR. Therefore no further response is required. As a courtesy, the addition of mixed use land uses (Mixed Use 1, Mixed Use 2, Mixed Use 3, and Mixed Use 4) were included as a result of extensive public involvement identified evolving land use trends and community goals for this area that represent the best potential for redevelopment, change in land use, and/or change in activity intensification. Policy LU-5.1 identifies the creation of unique mixed use districts as a tool to fulfill the Guiding Theme of “Creating a Vibrant Destination City,” and “A City with Choices.” Furthermore, inclusion of mixed use land

uses at key locations within the City correlate with SANDAG's Smart Growth Concept Map which identified Rancho Santa Fe Road and San Marcos Boulevard as mixed use transit corridors. Development of mixed use will be market driven based on private development. Mixed Use 1 and Mixed Use 2 designations allow for a mix of residential and commercial uses; they do not preclude the maintenance of existing residential uses in the area. Mixed Use 3 and Mixed Use 4 designations allow for a mix of commercial, office and industrial uses in a mutually-supportive business environment; residential uses are not permitted. See Chapter 2 Land Use Element, Land Use Density and Intensity (starting on page 2-15) of the General Plan for further discussion of land uses and mixed use.

- E7-15 This comment does not pertain to the environmental analysis in the EIR. Therefore no further response is required. Refer to response E7-14 for a discussion of mixed use land uses.

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| E7-16 | 3. Through much of the GPAC proceedings, the most destructive proposals were limitations of Floor Area Ratios (FAR) and open storage for industrial zones. Only after repeated protests on the open storage from Industrial property owners did the Planning Department partially relent and tentatively allow limited open storage. Yet a recent alteration in the Planning Handbook allowed the City Manager to arbitrarily increase outdoor storage for a single entity. This violates Open Government principles. Allowing spot revisions of the zoning without meaningful public involvement and the non-public ministerial granting of favors invites corruption. It also further degrades the advisability of a Program General Plan. |
| E7-17 | 4. The report repeatedly states that many problems are unavoidable for future expansion. In fact the issues are entirely in the City's control to mitigate if not eliminate. The central question is whether the conflicted City Staff will require new projects to bear a fair burden of their impacts suitable for the high density housing it promotes. If the developer pays a fair share much of these problems disappear. The issue of regulatory capture again bears consideration. |
| E7-18 | 5. Higher density "mixed-use" development is expected to displace existing residents, mostly single family dwellings and existing commercial properties. These properties are nowhere near their expected lifetimes of the buildings. This pattern of development is only possible by the forced eviction of the property owners through eminent domain. Eminent domain proceedings are virtually only possible through redevelopment through the Redevelopment Agency (RDA). Thus the City must come up with a new mechanism for such forced evictions and define it for the citizens to assess its implications. |
| E7-19 | 6. The report repeatedly notes that the unpredictable nature of future growth makes many aspects of the report impossible to assess and mitigate in areas such as traffic, parking, noise, etc. The purpose of a General Plan is to direct the growth pattern to avoid such problems. The City simply fails to address the issues and is unresponsive to CEQA requirements. The conclusions of the report repeatedly indicate that the "Smart Growth" and high density urban development will result in a lower quality of life. It may also increase the tax base and the rental income to support the City Staff's compensation funding gaps, but that situation is an unacceptable reason to degrade the quality of life for its residents. |
| E7-20 | 7. The goal of increasing commercialization will only work if the City does not unfairly advance its own commercial ventures over free enterprise or to insiders. These are unrealistic goals given the City's history and its facilitation of conflicts of interest. |
| E7-21 | 8. The promotion of "green jobs" has been a bust. As shown by many solar projects, most have been busts where a handful of insiders with political connections profited leaving bankrupt companies behind them.
9. Not all "green" jobs are green. Over 85% of solar panels are built in China which uses dirty coal plants for energy production which is needed for panel production. On a global basis, solar panels produce a net increase in global carbon dioxide. The exorbitant cost of training individuals for "green" jobs has been prohibited high. The waste is not financially or environmentally sustainable. |
| E7-22 | 10. The stated policy of preserving open spaces is violated with the Creekside development and its proposed levies and extensive grading. |
| E7-23 | 11. The destruction of agricultural and industrial businesses unfairly limit the ability of minorities to gain economically. These have been powerful uplifting engines of social and economic advancement that have suffered in the City. Placing emphasis on retail operations unfairly bias the City's economy against them. |

- E7-16 This comment does not pertain to the environmental analysis in the EIR. Therefore no further response is required. The General Plan does not imply or condone spot zoning, nor does it regulate floor area ratios for outdoor storage in relation to any land use designation. The application of land use designations is intended to regulate the safety and compatibility of adjacent land uses. Regulation of floor area ratios is necessary to address safety and compatibility. For a further discussion of land uses and floor area ratios, see Chapter 2 Land Use Element, Land Use Density and Intensity (starting on page 2-15) of the General Plan.
- E7-17 In response to this comment, the Draft EIR identified Mitigation Measures by environmental topic to reduce significant impacts as feasible. Specifically, the General Plan directly ties development approval to ability to provide appropriate facilities and infrastructure through the following policies LU-8.1, LU-8.2, LU-8.3 LU-14.1 and LU-14.2. EIR Mitigation Measures PSU-2, PSU-4, PSU-6, PSU-7 also address these topics.
- E7-18 In response to this comment, the Draft EIR determined that implementation of the General Plan will not displace substantial numbers of existing housing or people and would result in a less than significant impact; see Section 3.13.4 for further discussion of this topic. General Plan land use designations adjacent to Rancho Santa Fe Road are identified for limited change from existing residential land uses to Mixed Use 1 land uses. Mixed Use 1 does not preclude the maintenance of existing residential uses in the area; redevelopment of properties in the area from residential to mixed use will be market driven and is not required under the General Plan. See response E7-2 for further discussion on redevelopment.
- E7-19 This comment misunderstands the purpose of and legal requirements for the Program-level EIR prepared for the City of San Marcos General Plan. A Program-level EIR is prepared for a series of actions that can be characterized as one project. An advantage of a Program EIR is that it allows the lead agency to consider broad policy alternatives and “program wide mitigation measures” at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts. (CEQA Guidelines § 15168(b)(4).)

The degree of specificity in an EIR corresponds to the degree of specificity of the underlying activity being evaluated. (CEQA Guidelines § 15146.) Also, the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of a project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. (CEQA Guidelines §§ 15151, 15204(a).)

CEQA Guidelines § 15146(b) provides that an EIR prepared for the adoption of a local general plan should focus on the secondary environmental effects to be expected following adoption, but that the EIR need not be as detailed as one prepared for the

specific construction projects that follow. Further CEQA Guidelines § 15152(c) state that when a lead agency is using the tiering process for a large scale planning approval such as a general plan, the development of the detailed site-specific information may not be feasible and can be deferred to project-specific CEQA documents.

The Draft EIR includes environmental analysis for traffic (see Section 3.16.4), and noise (see Section 3.11.4) as required under CEQA. Analysis of parking is not required under CEQA thresholds, however the topic is briefly discussed on page 3.16-11.

The Draft EIR does acknowledge that implementation of the Draft General Plan would result in significant unavoidable project-level impacts related to air quality and greenhouse gas emissions and significant unavoidable cumulative impacts related to air quality, greenhouse gas emissions, water supply and energy infrastructure.

- E7-20 This comment does not pertain to the environmental analysis in the EIR. Therefore no further response is required.
- E7-21 This comment does not pertain to the environmental analysis in the EIR. Therefore no further response is required.
- E7-22 This comment does not pertain to the environmental analysis in the EIR. The referenced “Creekside” project, assumed to mean the San Marcos Creek Specific Plan, was approved prior to the General Plan update process and the publishing of the General Plan and associated EIR documents. Therefore no further response is required.
- E7-23 This comment does not pertain to the environmental analysis in the EIR. Therefore no further response is required. As a courtesy, the General Plan includes planning, goals, policies and implementation measures to support, maintain and enhance agricultural, industrial, and commercial opportunities. See Section 2.4 of the General Plan for specifics. Additionally, the inclusion of land use designations Mixed Use 3, Mixed Use 4, and Business Park increase industrial opportunities in the City; see Table 2-3 of the General Plan for details on land use designations.

Other Factors

Detailed analysis of a portion of significant factors follows:

Neighborhoods

E7-24

The State is now required to redistrict based on communities. This makes the designation of what constitutes a community particularly important as it facilitates gaming the designations for political advantage. The neighborhoods defined in the General Plan do not accurately reflect the character of many areas, particularly for rural areas which may be subjected to intense urban growth. Such designations could facilitate the disenfranchisement and the destruction of their chosen quality of life. These boundaries need to be redrawn respecting existing communities and their desires more faithfully. They cannot be used for conversion from at large representation to area representation. The City does not have the moral or ethical right to social engineer and dictate citizen lifestyles or dilute their right to fair, representative elections.

Affordable Housing Dispersal and Schools

E7-25

The Report states that Affordable Housing has been dispersed throughout the City per regulatory requirements. Such dispersal is a necessary component of making Affordable Housing a decent place to live for low-income environments who would otherwise have to live in neighborhoods that do not allow for social advancement educationally and economically. Yet the City has not exactly followed these precepts. Most of the developments to date have been highly clustered in the Richmar region. The City with its high density urban developments will produce a second cluster producing overcrowded schools and low paying retail employment. The City has not given proper weight to these minority problems in its planning.

Aesthetics (P. 4.0-3)

E7-26

As the City Staff and Council has been proposing devastating the Creekside natural habitat and putting up high density apartments in the heart of the City, the city will suffer vista impacts and ultimately produce blight. These are entirely subject to mitigation by the maintenance of high standards and the balanced build out of the City with proper respect for the Creekside environment.

Agricultural Resources (P. 4.0-3)

E7-27

Smart Growth dictates that land use is balanced with agricultural resources carefully husbanded. The EIR states these limited resources (already decimated by urban development) will be virtually wiped out. Any allusion that the City is following "Smart Growth" principles is unsupportable. The primary alteration is to high density residential and retail residential. This increases profit potential for City commercial ventures, but weakens the economic foundation of the City and the County.

The statement that this problem cannot be mitigated is false. These valuable dwindling resources must be preserved. There is no sustainable economic model that will support the elimination of these resources.

Geology, Soils and Minerals (P. 4.0-6)

E7-28

The continued drumbeat that no projects are identified as yet and that they will be determined on a case-by-case basis where significantly adverse and negative effects will likely occur is a strong argument against using a Program General Plan and EIR if significant impacts can result. More stringent and clear standards must be applied.

- E7-24 This comment does not pertain to the environmental analysis in the EIR. Therefore no further response is required. As a courtesy, the discussion and mapping of neighborhoods was included in the Land Use and Community Design Element, Chapter 2 of the General Plan, to continue and preserve the traditional “neighborhoods” as historically planned for and defined by previous General Plan. Identification of neighborhoods is not directly linked to land use densities nor to political jurisdictions.
- E7-25 This comment does not pertain to the environmental analysis in the EIR. This comment is related to Program 24 of the 2005-2010 Housing Element (page 8-98 of the General Plan). State housing law allowed San Diego County jurisdictions to self-certify their 2005-2010 Housing Elements, in lieu of obtaining State certification. However, to self-certify its Housing Element, a city or county was required to provide a statement regarding how its adopted Housing Element addressed the dispersion of lower income housing within its jurisdiction, documenting that additional affordable housing opportunities would not be developed only in areas where concentrations of lower income households already existed, while taking into account the availability of necessary public facilities and infrastructure. Therefore, the City created the policy to comply with the self-certification requirement. However, the City did not self-certify the Housing Element, primarily because the City would not have been eligible to obtain State grant funding opportunities had the City opted to self-certify. The State Department of Housing and Community Development certified the Housing Element on March 10, 2006.

The City is committed to creating workforce housing throughout the City and has implemented a number of other housing programs to accomplish the dispersal of workforce housing throughout the City, providing safe, clean housing for seniors and lower income residents. Workforce housing has been created in all of the City’s communities and has created nearby access to social support programs, afterschool learning and educational services to area residents. The exception is the Twin Oaks Valley community, which is largely rural and agricultural, does not have any multi-family housing, and has limited access to services, food outlets, and transit/transportation opportunities. The City has invested in the revitalization of the high density Richmar neighborhood, primarily due to the blighted conditions that consisted of high crime rates, substandard multifamily housing stock, and limited recreational opportunities. This neighborhood is located within a central core of the City and is in close proximity to schools, community services, recreation facilities, and transit opportunities, including San Marcos Elementary and Middle schools; MAAC Headstart; San Marcos Unified School District; Palomar College; San Marcos Senior Center; Corky’s Gymnasium; Boys & Girls Club; Buelow Park; the future Connors Park; Mission Sports Park; Civic Center park; City Hall; County branch Library; North County Health Services; two Sprinter stations and a North County Transit District bus transit station at Palomar College.

Affordable housing opportunities have been provided throughout the City and each development has been required to comply with San Marcos Unified School District requirements.

- E7-26 This comment refers parenthetically to page 4.0-3 of the Draft EIR pertaining to the maximum theoretical building scenario for the General Plan. This section was provided in response to a 2003 court decision regarding the El Dorado County General Plan, which required that El Dorado County address theoretical buildout. Growth projections developed for EIRs are not intended to be statements of policy about the amount of future growth of the City nor are they intended to represent the theoretical maximum “buildout” of a City. The growth projections developed for General Plan EIRs tend to be aggressive and “conservative”; that is, they assume a higher-than-likely amount of growth than is expected to occur in reality. This allows for an analysis of the maximum potential environmental impact to the City as a result of the proposed action (which in this case is the adoption of the General Plan). See Section 4.1 for a more thorough explanation of the purpose and limitations of the theoretical build-out scenario.

Environmental analysis of the General Plan was based on the expected development capacity identified in Table 2.0-2. Table 2.0-2 of the Final EIR indicates that expected development capacity associated with the proposed distribution of land use specified in the San Marcos Land Use Plan based is much lower than the maximum theoretical building scenario. Expected development capacity was determined based on market factors and past development trends in the planning area which indicate that actual development intensities are expected to be lower than the maximum allowed by the land use designations. See response E7-19 regarding the scope of a Program-level EIR.

As stated in response E7-22, the San Marcos Creek Specific Plan was approved in 2007, prior to the General Plan update process and the publishing of the General Plan and associated EIR documents. See EIR Section 3.1.4 for aesthetic analysis based on the expected development capacity of the Project.

- E7-27 This comment refers parenthetically to page 4.0-3 of the Draft EIR pertaining to the maximum theoretical building scenario for the General Plan; see response E7-26. See EIR section 3.2.4 for agricultural resource analysis based on the expected development capacity of the Project.
- E7-28 This comment refers parenthetically to page 4.0-6 and 4.0-7 of the Draft EIR pertaining to the maximum theoretical building scenario for the General Plan; see response E7-26 for theoretical buildout and response E7-19 regarding site-specific project-level analysis vs. the program level analysis of this EIR. For analysis based on the expected development capacity of the Project see EIR sections 3.6.4 for geology, soils and mineral resource

analysis; section 3.8.4 for hazards and hazardous materials; and section 3.9.4 for hydrology and water quality.

Hazards and Hazardous Materials (P. 4.0-6)

E7-28
Cont.

Same problems and comments listed in the previous section.

Hydrology (P. 4.0-7)

Same problems and comments listed in the previous section.

Noise Impacts (P. 4.0-8)

E7-29

The report states that noise level reduction requirements are impossible to predict. False. More than adequate data is available to accurately assess noise levels for virtually any new project. The noise levels are most certainly avoidable through suitable density housing and building codes. The EIR does not impose or specify appropriate measures. It does not specify needed new project requirements and build out zonings.

Paleontological Impacts (P. 4.0-8)

E7-30

This section is partially correct. True, deeper excavation will be required, but the deeper excavations are highly unlikely to unearth new discoveries. Paleontological finds are most likely to be found in the easily already developed land. The principle problem lies in the present program of not identifying possible Native American burial sites and other significant such lands. This policy has the laudable and reasonable goal of protecting these sites from disturbance. However, projects already performed have identified general zones where authoritative sources supported by the tribes have certified that there are no known sites within a two mile radius. By mapping these known clear areas and noting the build out of likely sites, this factor is not an major issue. The City Staff must collect these data points and generate a map of zones where no sites are known.

Population and Housing (P. 4.0-9)

E7-31

Housing requirements are unpredictable as the General Plan has been formulated prematurely and is particularly out of date in light of current events. The County is imposing new housing standards for Affordable Housing and density. These are promised for next year. The appropriate and prudent action is to wait until these factors are known and then complete the planning accordingly. Since the General Plan is being pushed so frantically, the most logical conclusion is that the environmental impacts will be massive and the City does not wish to require appropriate levels and types of development. The implications of infrastructure are potentially staggering and financially unsustainable. To plunge headlong into a potentially disastrous pattern of development when a year's wait will provide the needed information is folly.

Note that the State has recently legalized unfunded mandates. Prudently, one should wait to see what mandates they wish to impose on housing before proceeding.

Recreation Impacts (P. 4.0-10)

E7-32

The statement that recreational impacts from high density and "Smart Growth" are unavoidable is untrue. Considerable space is available for expansion appropriate to the level of building it proposes. The City is simply unwilling to appropriately expend the funds needed to maintain an adequate quality of life. It proposes to lower living standards to increase density. It must require new projects to fairly mitigate their impacts and appropriately pay impact fees to at least maintain current levels of service. They are entirely avoidable problems.

- E7-29 This comment refers parenthetically to page 4.0-8 of the Draft EIR pertaining to the maximum theoretical building scenario for the General Plan; see response E7-26. See EIR section 3.11.4 for noise analysis based on the expected development capacity of the Project; see section 3.11.5 for Mitigation Measures related to program-level noise impacts.
- E7-30 This comment refers parenthetically to page 4.0-8 of the Draft EIR pertaining to the maximum theoretical building scenario for the General Plan; see response E7-26. See EIR section 3.12.4 for paleontological resource analysis based on the expected development capacity of the Project. The City appreciates the suggestion of mapping the areas certified by Native American Tribes where no known sites exist within a two mile radius; however, this is not an activity that is specifically tied to the General Plan/Project or being undertaken at this time.
- E7-31 This comment refers parenthetically to page 4.0-9 of the Draft EIR pertaining to the maximum theoretical building scenario for the General Plan; see response E7-26. See response E7-4 regarding the status of the Housing Element. See EIR section 3.13.4 for population and housing analysis based on the expected development capacity of the Project
- E7-32 This comment refers parenthetically to page 4.0-10 of the Draft EIR pertaining to the maximum theoretical building scenario for the General Plan; see response E7-26. See response E7-17 regarding ties between public facilities and infrastructure provisions and development projects.

Public Services, Utilities and Energy (P. 4.0-9)

E7-33 The build out scenario simply states that the population growth will outstrip energy sources, infrastructure, and public services. In essence, it proposes that new development not pay appropriate impact fees and that the quality of life be allowed to degrade despite these limitations. These are under the control of the City through appropriate buildings codes and impact fees. The most serious problem is water. The water supplies are severely limited and the ability to sustain any new growth is problematic. If the City merely closes its eyes and forces higher density building without prudent limitations and development patterns, the environment will be severely impacted for entirely avoidable reasons. Given the situation which the City has been profiting off well water and not imposing known water conservation techniques to reasonable levels and as the water problem is painfully well know, these actions are irresponsible. It violently violates sustainability principles that "Smart Growth" dictates.

Transportation and Traffic Impacts (P. 4.0-10)

There are two major incorrect contentions that are particularly noteworthy. First, the congestion on San Marcos Boulevard is supposedly unavoidable. Yet in 2011, a traffic congestion project produced results which by the City's Chief Engineer characterized as "spectacular". An investment in a traffic light synchronization program produced less congestion, less vehicle idling, and less loss of productive time by motorists. Using SANDATG figures, the investment will save eight times the investment over twenty years. The financial, environmental and quality of life improvements on this corridor were limited however by the three schools and the foot traffic they generate. It was noted during the Council meeting report that pedestrian bridges along this route would have produce much larger gains. It would also promote pedestrian traffic as a promulgated worthy environmentally desirable alternative mode of transport and increase safety of the children.

E7-34 A pedestrian bridge would cost less than \$1,700,000. The City Staff plans to expend almost \$100,000 to help build a pedestrian bridge over Mission for the benefit of a developer for the Palomar Statio. City Staff will spend \$100,000 to improve traffic in front of Creekside Marketplace which has been vital to maintaining the City Staff compensation. The City has \$6,000,000 of unallocated Transnet funds. Yet the Staff has failed to go forward with San Marcos Boulevard pedestrian bridges. These funds should be fully allocated to ensure that they are being used appropriately. Clearly mitigating the environmental impact and meeting SANDAG's standards and improving the quality of life for the community are not the priorities they should be. Clearly the City has other uses for the funds which it wishes to spend on as yet unannounced projects – except for the Creekside and Palomar Station developments. Could a conflict of interest and apportionment of funds for insiders and Staff compensation be the determining factors? A straightforward explanation from the City Staff is needed and appropriate project developments for community benefit.

E7-35 The second patent misstatement is that parking is inadequate. The report notes that the City has been building less than needed parking, particularly for commercial applications. It proposes to exacerbate the problem with its high density City core and mixed-use development. The amount of parking required is entirely within the control of the City in its permitting of new construction. It is an indirect indication that its high density development is uneconomical and unhealthy because it is unwilling to require adequate parking in new projects.

The insistence that these problems are unavoidable and beyond the City's ability to mitigate is disingenuous at best.

Air Quality and Mobility (P. 4.0-14)

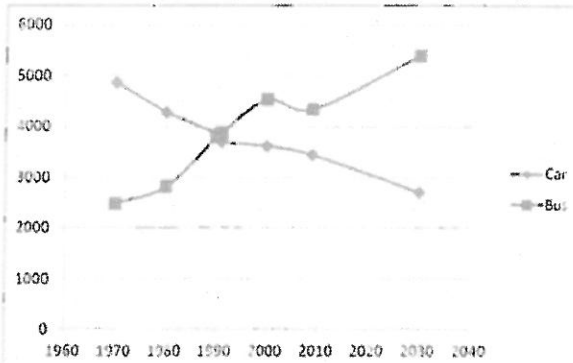
E7-36 1. The recognition that individual vehicle emissions for individual vehicles is significant is correct – but it then proceeds into less supportable assertions. For example, the statement that the proposed intracity Shuttle will lessen pollution is not. Below is a graph of BTU's/passenger mile from the most recent Department of Energy

- E7-33 This comment refers parenthetically to page 4.0-9 of the Draft EIR pertaining to the maximum theoretical building scenario for the General Plan; see response E7-26. See EIR section 3.14.4 for public services, utility and energy analysis based on the expected development capacity of the Project. See response E7-17 regarding ties between infrastructure provisions and development projects.
- E7-34 This comment refers parenthetically to page 4.0-10 of the Draft EIR pertaining to the maximum theoretical building scenario for the General Plan; see response E7-26. See EIR section 3.16.4 for transportation and traffic analysis based on the expected development capacity of the Project. The remainder of the comment does not pertain to the environmental analysis in the EIR. Therefore no further response is required.
- E7-35 This comment refers parenthetically to page 4.0-10 of the Draft EIR pertaining to the maximum theoretical building scenario for the General Plan; see response E7-26. See EIR section 3.16.4 for transportation and traffic analysis based on the expected development capacity of the Project. Analysis of parking is not required under CEQA thresholds; however, the topic is briefly discussed on page 3.16-11.
- E7-36 This comment pertains to cumulative impacts. CEQA Guidelines Section 15130 describes the requirements for the discussion of cumulative impacts in an EIR. It states that an EIR will discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable. The discussion will reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as much detail as is provided for the impacts attributable to the project alone. In addition, the CEQA Guidelines allow for a project's contribution to be rendered less than cumulatively considerable with implementation of appropriate mitigation.

In section 4.2, Air Quality, the Final EIR determines proposed General Plan would result in a cumulatively considerable incremental contribution to a significant cumulative long-term operational air quality impact even with the application of mitigation measures AQ-2 through AQ-5. This cumulative impact would be significant and unavoidable. The City appreciates the provision on additional information into the record regarding car and bus emissions which supports the cumulative impact statement of the EIR.

(COE) study for individual vehicles and busses. I have included estimates of consumption based on proposed national standards for improved efficiency. Note that the proposed shuttle busses are diesel which produce significant CO₂ and sulfurous emissions. Further, the City proposes increasing the frequency of service which will lower bus loads and therefore raise BTU's/passenger mile. The effect is startling on environmental impact.

E7-36
Cont.



2. Further, diesel busses can be readily converted to much cleaner natural gas. The US has several centuries of natural gas and eliminates foreign oil dependency and sustainability. The City consultants proposed standard diesels busses for economy, but would represent another instance where the City chooses to degrade the environment for economic reasons rather than recognize clear trends in its planning. The proposed Intracity Shuttle is environmentally unsound increasing green house gasses (GHG) while other programs will reduce congestion, reduce emissions, and improve the quality of life. It violates the requirements of AB 32.

E7-37

Odors (P. 4.0-14)

The statement that odors from commercial operations are unavoidable is truly not a typical problem. Most successful commercial enterprises are separated from residential and residents do not have to live in close proximity to such establishments. In mixed-use facilities, they are intimately connected. The residents cannot escape the odors. They are captive to the lower quality of life that mixed-use "Smart Growth" policies inevitably produce. They are inefficient use of land for specialized uses. Inefficiency is a hallmark of economically and environmentally unsustainability.

E7-38

Biological Resources (P. 4.0-15)

This section is also disingenuous. The General Plan allows for the violation of habitat protection in areas of the City's commercial enterprises based on proposed special relief offered primarily to government entities and large developers. The expansion of the Creekside Market enterprise zone (so supportive of City Staff compensation) will produce gross environmental damage with its creek levies and destructive grading of endangered habitat. The gross violation of equality under the law is manifest.

E7-39

One cannot allow development on the off chance that relief is possibly on the way. I do not agree to the inclusion of insects and common plants to endangered species lists, but the law must apply equally until it is fixed. It is appropriate, however, that the City abide by the law to the extent of requiring a project-by-project CEQA analysis and notification. Any such analysis consisting of hand waving that a project is in "substantial compliance" is inappropriate for any large project – including questionable City commercial enterprises.

E7-40

- E7-37 This comment pertains to cumulative impacts. The Draft EIR determines the Project would have less than significant impacts related to implementation of AB 32 as addressed in section 3.7.4. The Draft EIR also determines, page 3.7-10, the Conservation and Open Space Element of the proposed General Plan includes policies that would contribute to reducing GHG emissions. These policies include participation in regional efforts to reduce GHGs; quantifying community-wide and municipal greenhouse gas emissions to set a reduction goal and monitor progress; encourage energy conservation and the use of alternative energy sources; promote energy efficiency and conservation through design, construction, maintenance and operation of public and private facilities, infrastructure and equipment; requiring all City facilities and services to incorporate energy and resource conservation standards and practices; encouraging and supporting the generation, transmission and use of renewable energy; and encouraging retrofitting of existing buildings rather than demolition. However, the Draft EIR does conclude that implementation of the Draft General Plan will result in a significant unavoidable project-level and cumulative impact related generation of greenhouse gas emissions.
- E7-38 This comment pertains to cumulative impacts. The City appreciates the addition of information that supports the Draft EIR findings that the proposed General Plan would not create objectionable odors affecting a substantial number of people and impacts would be less than significant. Issues related to adjacency and compatibility issues of commercial and residential uses within mixed use developments will be addressed through zoning regulations as part of the pending update of the Zoning Ordinance.
- E7-39 This comment pertains to cumulative impacts. See response E7-36 regarding cumulative impacts. See response E7-22 regarding the Creekside project. Mitigation Measures within section 3.4.5 are intended to reduce impacts to biological resources. Consistent with CEQA Guidelines and multiple Mitigation Measures of the Draft EIR, individual development projects would be reviewed for project-specific impacts, including biological resources, during any required environmental review. If project-specific significant impacts are identified, applicable mitigation measures will be placed on the project as conditions of approval.
- E7-40 See response E7-39.

Cultural Resources (P. 4.0-15)

Cultural Resources up to the present have been preserved and complemented. We live in a western state with rich Latino, native American and pioneer cultures. The inclusion of Heritage Homes is a shining example of community reverence for its culture. The mixed-use philosophy substitutes an alien European design devoid of cultural context. It displaces and obliterates existing wetland preserves and potentially threatens businesses such as Restaurant Row with featureless, culturally barren apartments with small Eastern European plazas – unless they are scrapped for cost reasons.

E7-41 The City has build landscaping, community centers, and “pocket parks”. The pocket parks in apartment complexes can easily become drug havens and crime locations. The City Staff, consultants and even Council members has proposed lessening the inclusion of even the parks and community centers In order to “lower costs” of high density housing. In reality the result is to iprove bottom lines at community expense.


Cultural resources do matter. The self serving policies of eliminating them and insisting they are less than significant is unacceptable and incorrect.

Green House Gasses (P. 4.0-16)

E7-42 This section proposes gross violations of GHG regulations per AB 32. There is no real attempt to follow these requirements. Notably the Intracity Shuttle, traffic congestion, and pedestrian bridges are not being funded or managed properly. The significant advances these programs can produce are being relegated to minor side issues in the quest for more profit.

E7-43 While other objections exist and have yet to be uncovered because of the constraints of the holidays, I reserve the right to present them at a later date.

Cordially submitted,



Michael D. Hunsaker

- E7-41 The Draft EIR determines the Project would have less than significant project-level and cumulative impacts related to cultural resources; see section 3.5.4 and page 4.0-15 as referenced in the comment. The remainder of the comment does not pertain to the environmental analysis in the EIR. Therefore no further response is required.
- E7-42 See response E7-37. See EIR section 3.7.4 which addresses project-level GHG impacts and associated Mitigation Measures.
- E7-43 The Draft EIR for the City of San Marcos General Plan was distributed to interested agencies and the public for review and comment during a 45-day-period which ran from November 21, 2011 to January 5, 2012. Public testimony is permitted, and will be added to the record during the open public testimony period, at Planning Commission meetings and City Council hearings regarding this issue.