

(R-95-930)

RESOLUTION NUMBER R-284941

ADOPTED ON NOVEMBER 15, 1994

WHEREAS, on July 20, 1993, The Yarmouth Group, Inc. submitted an application to the Development Services Department for a Mission Valley Development Permit and Conditional Use Permit; and

WHEREAS, the permit was set for a public hearing to be conducted by the City Council of The City of San Diego; and

WHEREAS, the issue was heard by the Council on November 15, 1994; and

WHEREAS, the Council considered the issues discussed in Environmental Impact Report No. 93-0437; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that it is hereby certified that Environmental Impact Report No. 93-0437 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.) as amended, and the State guidelines thereto (California Administrative Code Section 15000 et seq.), that the report reflects the independent judgement of The City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council.

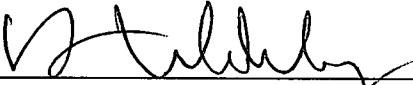
BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code Section 21081 and Administrative Code Section

15091, the City Council hereby adopts the findings made with respect to the project, a copy of which is attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED, that pursuant to California Administrative Code Section 15093, the City Council hereby adopts the Statement of Overriding Considerations, a copy of which is attached hereto and incorporated herein by reference, with respect to the project.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code Section 21081.6, the City Council hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated herein by reference.

APPROVED: JOHN W. WITT, City Attorney

By   
\_\_\_\_\_  
Harold O. Valderhaug  
Chief Deputy City Attorney

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02/24/95  
Or.Dept:Clerk  
R-95-930  
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**Draft Candidate Findings and Statement of Overriding Considerations Regarding the Final Environmental Impact Report for the Fashion Valley Shopping Center Expansion Mission Valley Development Permit/Conditional Use Permit**

The following Findings and Statement of Overriding Considerations are made relative to the conclusions of the Final Environmental Impact Report (Final EIR) for the Fashion Valley Shopping Center expansion project, SCH No. 93081130, DEP No. 93-0437, proposed by the Fashion Valley Venture within the City of San Diego, California.

The project is a proposed expansion and renovation of Fashion Valley Shopping Center. The expansion would consist of adding up to 440,000 gross leasable square feet of retail area to the existing 1,376,251 gross leasable square feet and would include one new department store and expansion of two others, a multiplex cinema, and new shops and restaurants. Proposed on-site improvements would affect only areas already developed for the Shopping Center. Added parking would be accommodated by expanding existing parking structures and constructing four new ones. Renovation would consist of new entries and variations on an architectural theme using plantings and trellises in entries and pedestrian activity spaces. Off-site improvements include installation of a traffic signal at the intersection of Fashion Valley Road and the southernmost entry to the Shopping Center, and a pedestrian pathway and other pedestrian-oriented facilities south of the project along the river frontage. The project involves an irrevocable offer of dedication of right-of-way for Hazard Center Drive, Camino de la Reina, and the Mission Valley West light-rail transit (LRT) line south of the Shopping Center. In addition, the Fashion Valley Transit Center, presently located in the Shopping Center off Friars Road, would be moved to an area (dedicated by the Applicants) at the intersection of Fashion Valley Road and future Camino de la Reina. Discretionary actions necessary for the project implementation include a Mission Valley Development Permit and a Conditional Use Permit.

The Final EIR for the project evaluates the following environmental issues in relation to the project: traffic circulation and access; land use, urban design, and aesthetics; biological resources; geology and soils; air quality; and hydrology and water quality. The Final EIR also evaluates the cumulative and growth-inducing impacts of the project, as well as alternatives to the project.

The Final EIR indicates that the project's direct impacts on the following environmental issues are less than significant, or can be reduced to less than significant levels if all the mitigation measures recommended in the Final EIR are implemented: traffic

the project on traffic circulation and access to a level less than significant.

- a. Payment of Development Impact Fees to the Mission Valley Public Facilities Financing Plan.
- b. Irrevocable offer of dedication of LRT right-of-way (ROW) and bus transfer station.
- c. Irrevocable offer to dedicate the ROW for Camino de la Reina and Hazard Center Road.
- d. Interaction of automobiles, bike and pedestrian paths, the LRT and buses.

## 2) Traffic Circulation and Access—Cumulative Impacts

### Impact

Cumulative total volume for the completed project would be 32,300 average daily traffic (ADT). The project would contribute to cumulatively significant traffic impacts identified in the Mission Valley Community Plan EIR for all development in Mission Valley.

### Finding

The above mitigation measures listed above for direct traffic impacts would provide some mitigation towards the significant cumulative impact; however, not to a level less than significant.

## 3) Land Use, Urban Design and Aesthetics

### Impact

Urban design of development along the San Diego River is governed by the goals and objectives of the Mission Valley Community Plan and the Mission Valley PDO. Of special concern is the interface of development with the San Diego River corridor. The proposed project would construct parking structures along the southern boundary of the site, near the river, that would result in a significant impact with regard to aesthetics.

### Finding

The Applicant has agreed to include in the project, as conditions of approval of the Mission Valley Development Permit, a number of measures to reduce the identified impact. These measures include:

- a. At least four open view and pedestrian access corridors would be provided along the river frontage between the

conditions of the Mission Valley Development Permit. These measures include:

- a. Night lighting of the construction area, if necessary, must be directed toward the construction area itself and away from the riparian habitat to the south. Shielding and direction of lighting to achieve this end, as well as a requirement that the minimum amount of lighting necessary be employed, shall be specified in the construction contract.
- b. No trees on the southern border of the project site shall be removed or disturbed until surveyed by the consulting biologist for the presence of nesting raptors or other sensitive species. If nesting species are identified, appropriate measures to avoid disturbance must be implemented. These measures include leaving the nesting site undisturbed and possibly avoiding the area until the nestlings fledge, as determined by the consulting biologist.
- c. The Applicant must retain a qualified wildlife biologist to survey the adjacent riparian habitat no earlier than two weeks prior to the initiation of construction activities to determine the presence of nesting sensitive avian species or other sensitive wildlife. This survey will include not only the riparian area but also the trees on the southern border of the project site that could serve as nest sites. If such species are detected, construction may commence and continue without further mitigation requirements. The report shall be required prior to issuance of the grading permit.
- d. If sensitive species, especially nesting raptors, are discovered during the survey, appropriate measures for the particular species and location shall be implemented. The construction contract for the project must stipulate this requirement. Appropriate mitigation shall be developed by the consulting biologist in consultation with the Applicant, the construction contractor, and the Environmental Analysis Section of the City of San Diego Development Services Department. Mitigation shall be designed to reduce project impacts to a level which is less than significant, while allowing construction to proceed on a normal schedule if possible. Possible mitigation measures could include, but are not limited to, the construction of temporary noise barriers, use of electric tools in place of internal combustion-powered tools, limitation of hours for construction, and redirection of construction to other parts of the project site during the nesting season.
- e. At the completion of mitigation, the consulting biologist shall prepare and file a report with the Environmental Analysis Section of the Development Services Department,

Valley Community Plan cannot be fully mitigated. Only adoption of the No Project alternative would avoid the project's contribution to cumulative air quality impacts. However, adoption of the No Project alternative would not eliminate the impact on a regional level.

**B. Public Resources Code Section 21081(b)**

The decisionmaker, having reviewed and considered the information contained in the Final EIR for the project and the public record, finds there are no feasible changes or alterations to the project which would avoid or substantially lessen the significant environmental impacts that are within the responsibility and jurisdiction of another public agency.

**C. Public Resources Code Section 21081(c)**

The decisionmaker, having reviewed and considered the information contained in the Final EIR for the project and the public record, finds that there are specific economic, social, and other considerations which make infeasible the project alternatives identified in the EIR to reduce the significant impact to land use, urban design, and aesthetics and the cumulative traffic and air quality impacts to a level less than significant.

**1) No Project Alternative**

Under the No Project alternative, the project would not be implemented and conditions on and affecting the site would remain in their present state. The site would remain developed, as at present, and the existing project's contribution to significant cumulative impacts on air quality and traffic would remain. The significant impact on land use, urban design, and aesthetics associated with construction of parking structures on the south side of the project adjacent to Camino de la Reina may be avoided in the short term.

**Finding**

The No Project alternative would eliminate the project's contribution to significant unmitigated cumulative impacts on traffic and air quality. The difference between cumulative traffic generated by the existing Shopping Center and by the proposed project would represent an incremental reduction to these cumulative impacts, compared to overall traffic volumes in Mission Valley and the region.

Initially, no parking structures would be constructed in the Floodway Zone along the river frontage, however, with 1) the ROW acquisitions by the City for Camino de la Reina and Hazard Center Drive; 2) the sewer system upgrade and relocation; and 3) MTDB's acquisition of ROW for the LRT and Bus Transfer Station,

severely affect the economic viability of the center. For these reasons, and those as stated in the letters to the City and the Applicant, the no project alternative is deemed not to be economically, socially or functionally feasible. Further, because of operational constraints, and constraints associated with the various public infrastructure improvements which are planned for the area, the No Project alternative would have a substantially negative and detrimental effect on the existing Shopping Center operations. Therefore the decisionmaker has determined that the No Project alternative is infeasible.

## 2) Reduced Intensity/Reduced Project—25 Percent Reduction

Under this alternative, 330,000 square feet of retail space would be added instead of the project's 440,000 square feet. In addition, the parking rate used for the project, 4.5 spaces for every 1,000 square feet of retail use, may at the City's direction, be reduced by 15 percent (LRT Reduction) and 60 percent of all parking spaces could be compact to further reduce space needed for structure parking. Because of site constraints, structured parking, although reduced in size, would still be required and some may be located adjacent to Camino de la Reina. The significant impact on aesthetics and visual quality would be reduced but not eliminated under this alternative. Traffic would be reduced by approximately one-fourth and overall traffic by approximately six percent. Cumulative impacts on traffic and air quality would be reduced by a small increment, compared to the project, but not be eliminated.

## Finding

The Applicant has indicated that this reduced intensity alternative renders the project economically, functionally and socially infeasible. While identified impacts of the project would be incrementally reduced compared to the project, the impacts would remain significant, and the alternative offers only minimal comparative environmental advantages. Dedication of land for the transit system will contribute substantially toward timely and cost-effective implementation of public improvement plans in Mission Valley. While the lands offered by dedication could also be acquired through eminent domain, acquisition in such a manner would be considerably more costly and time-consuming. For the LRT line, which is scheduled to be in operation from Old Town to San Diego Jack Murphy Stadium by October 1997, for the Super Bowl in January 1998, these considerations are particularly important. Under this Reduced Intensity alternative, these valuable public benefits would not be achieved. Applicant has submitted a letter to Ms. Ann Hix dated July 13, 1994 and a letter to Applicant from Keyser Marston Associates Inc. dated July 13, 1994, both of which support of this conclusion (see attached copies). Applicant also submitted a letter to Ms. Ann Hix pursuant to Municipal Code § 69.0210A

functionally viable for Shopping Center operations, as documented above in the findings for the no project and the other reduced intensity alternative. The cost and design constraint issues of such structures would result in an unreasonable burden on the project and would in all likelihood render this Reduced Intensity alternative infeasible. (Further, because of the REA and other contracts with the existing tenants, some parking structures in the Floodway Zone would have to be implemented.) Parking structures in the Floodway Zone could be required for replacement of parking lost to public facilities even without added parking for an expansion. In addition to the economic infeasibility of this alternative, Applicant has concluded that this alternative is socially and functionally infeasible for a shopping center of this size.

While identified cumulative impacts of the project would be incrementally reduced compared to the project, the significant impact on aesthetics and visual quality could potentially be eliminated. Dedication of land for the transit system will contribute substantially toward timely and cost-effective implementation of public improvement plans in Mission Valley. While the lands offered by dedication could also be acquired through eminent domain, acquisition in such a manner would be considerably more costly and time-consuming. For the LRT line, which is scheduled to be in operation from Old Town to San Diego Jack Murphy Stadium by October 1997, for the Super Bowl in January 1998, these considerations are particularly important. Under this Reduced Intensity alternative, these valuable public benefits would not be achieved. Applicant has submitted a letter to Ms. Ann Hix dated July 13, 1994 and a letter to Applicant from Keyser Marston Associates Inc. dated July 13, 1994, both of which support of this conclusion (see attached copies). Applicant also submitted a letter to Ms. Ann Hix pursuant to Municipal Code Section 69.0210A from the law firm of Cors & Bassett to the Applicant, and a letter from Keyser Marston Associates Inc. to Mr. Rob Rundle dated August 25, 1994 (attached), which demonstrate the infeasibility of the no project and the reduced intensity project alternatives. The evidence submitted into the record indicates that without the expansion as requested, the Fashion Valley Shopping Center will suffer a market share decrease in years to come which will directly result in its inability to compete with surrounding regional shopping and other planned "power" centers. This will ultimately result in a deterioration in the Shopping Center's ability to economically survive, resulting in a decline of tenants and sales. It is neither socially, economically or functionally feasible to disregard the public benefits associated with project. Therefore the decisionmaker has determined that this reduced intensity alternative is infeasible.



In prefacing my remarks, it would appear that Staff is suggesting that the future public right of way (ROW) for the LRT, roadways, sewer and reclaimed water projects should be ignored when considering the alternatives. Regardless of whether Fashion Valley ever expands, the DEIR indicates this ROW will ultimately be required. In fact, in the case of the LRT and the sewer, this requirement is imminent. As a result, the ROW is an extremely important and relevant issue in responding to Staff's recommended alternatives. We conclude that replacement parking structures will have to be built in the southerly area of the Shopping Center to accommodate replacement parking necessitated by City and LRT ROW acquisitions even if the project does not proceed at all.

### NO PROJECT ALTERNATIVE

1. The regional shopping center business is highly competitive and requires that for existing centers to remain successful, they must periodically implement upgrades. Since the first expansion in 1981, Fashion Valley has seen the opening of University Towne Center, Horton Plaza and North County Fair. Each of these projects, particularly the latter, has eroded the market share of Fashion Valley (currently about 6% - 8%). For a center of Fashion Valley's size and number of department stores, its market share should be more around 10% - 12%. Through the years, Fashion Valley has had an edge over its competitors in terms of its department stores, and in turn, its competitors have had an edge in terms of the amount of retail mall shop area. For a regional shopping center with the size and number of department stores of Fashion Valley, the mall shop area should be in the range of 550,000 - 700,000 sq. ft. The Proposed Expansion includes a 250,000 sq. ft. increase of mall shops (including cinema), would place the Fashion Valley retail mall shops GLA in the 625,000 sq. ft. area range. This expansion would permit the enhancement of the tenant mix by adding a food pavilion, more quality restaurants, a cinema and other entertainment venues, more fashion and specialty stores, as well as some medium price tenant shops. Based upon the current demand for tenant space at Fashion Valley, the Center could add many new first time tenants to the San Diego County area, as well as salvage many of those which may leave San Diego due to their present locations in less than successful projects.

The Proposed Expansion also includes an increase of 190,000 sq. ft. of department store area. Fashion Valley has had discussions with its existing department stores, as well as potential new department stores. Some have indicated a desire to expand or become a part of Fashion Valley. Unfortunately, we are unable to provide specific commitments which can be announced at this time. The entitlement rights for such additions are a prerequisite to securing a firm commitment from either an existing department store to expand or a new department store to come on line. In addition, a department store is unwilling to wait 18 or more months to determine if the landlord can obtain entitlement rights.

Thus, without the ability to expand the mall shops or department stores, Fashion Valley can expect a deterioration in the Center's stature, resulting in a decline in tenants and sales.

REDUCED INTENSITY/REDESIGNED PROJECT - 25% REDUCTION

1. A reduction in the proposed expansion space by 110,000 sq. ft. would severely impact this project, particularly in terms attracting a new department store and securing existing department store approval to this alternative. As stated in item #1 of the No Project Alternative, the entitlement rights are a prerequisite to a firm commitment for adding a new department store or expanding an existing department store. Further, an existing department store that is unable to expand, may create a greater adverse effect by leaving the Center once its operating covenant has expired. To reduce the addition of mall shops by this amount would not provide a complete expansion of the mall shops on the second level. It would create dead end or poor customer circulation patterns that would result in poor tenant locations. In addition, department stores would not approve an expansion that was deficient in mall shops in close proximity to their second level entries. In addition, there would be a loss in sales revenues as compared to the Proposed Expansion. The amount of loss would be dependant upon which element or elements are deleted.
2. The No Project Alternative item #2 would clearly apply here. The suggestion of reducing the parking another 15% below 4.5 spaces per 1,000 (this would be equivalent to 3.825 per 1,000) and increasing the compact car spaces to 60% compounds the problems with item #2 above. While it reduces the overall parking area, it totally ignores the functional parking requirements of a regional shopping center. First of all, the parking was reduced from 5.0 spaces per 1,000 to 4.5 spaces per 1,000 in consideration of the LRT/Bus Transfer Station, and at the direction and requirement of the Planning Department. Secondly, a 60% compact car ratio may function in an office, industrial or residential project where nearly all of the spaces are used no more than once a day and where people will park their cars neatly in these spaces. However, in the case of retail, the spaces are being used many times a day. People will not take the time to precisely park their cars in such spaces, or systemically park their compact cars in compact spaces and standard cars in standard spaces. The result is a dysfunctional parking layout that would cause customers to consider shopping elsewhere.
3. As indicated, without the full entitlements requested, Fashion Valley would not be in the position to dedicate the ROW for the LRT, the roads and the sewer and water projects. Further, the reduced project would proportionately reduce sales tax and property tax revenues as well as badly needed DIF fees for PFFP related projects.
4. The reductions of cumulative impacts on traffic and air quality by this alternative are extremely small, when considering much of the traffic volumes into the Center are due to pass by or diverted trip traffic already adjacent to the Center.

REDUCED INTENSITY/REDESIGNED PROJECT - 50% REDUCTION

1. Under this alternative, 220,000 sq. ft. of retail space would be added to the Center. This alternative would render this project economically infeasible to the Owner and would greatly reduce the sales revenues as compared to the Proposed Expansion. The same problem with

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KEYSER MARSTON ASSOCIATES INC.

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July 13, 1994

Mr. Michael Tewalt  
Vice President  
Yarmouth Group  
725 South Figueroa Street, Suite 1590  
Los Angeles, California 90017

Dear Mr. Tewalt:

At your request, KMA has analyzed the potential impact of downsizing the proposed Fashion Valley expansion. This analysis has been prepared in response to the alternatives outlined in the Fashion Valley EIR.

In order to estimate the effects of downsizing the expansion to Fashion Valley, KMA used the retail allocation methodology employed in our previous analysis, and projected sales under two scenarios. The first scenario reduces the planned expansion by 100,000 square feet of gross leasable area, and the second scenario presents a 200,000 square foot reduction.

It is important to consider that while the reduction in square footage may appear to be minor, it has been KMA's experience that a regional center's size, as indicated by the number of department stores, as well as the amount and breadth of mall shop space are critical factors in the overall success of the center. Thus, the potential downsizing raises serious concerns, in our opinion, with respect to the ability of the center to become the dominant regional center in San Diego County. This would directly impact the magnitude of new sales that could be generated at the center as well and throughout the City of San Diego.

In assessing the impact of the reduced expansion, it is important to realize that shopping centers are stratified not only by size but also by type of center. In recent years, "power" or "value-oriented" centers have become a major force in retailing, and have begun to capture sales that have traditionally occurred in regional shopping centers. The erosion of market share at traditional regional centers has been particularly pronounced at smaller regional shopping centers anchored by a limited number of department stores and mall shop space.

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Mr. Michael Tewart  
July 13, 1994  
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We look forward to reviewing our findings with you at your earliest convenience.

Yours very truly,

KEYSER MARSTON ASSOCIATES, INC.

*Richard Botti (KRB)*

Richard L. Botti

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KEYSER MARSTON ASSOCIATES INC

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### Disposition strategies

KMA's analysis of the proposed expansion indicates that Fashion Valley needs the total square footage requested in order to achieve overall success in the trade area in the face of difficult competition. Competition exists presently in numerous power centers and, in particular, North County Fair, a 1,524,000-square-foot, five-department-store mall in Escondido.

In order for Fashion Valley to retain market share, Fashion Valley must expand to become a "super regional shopping center" similar to South Coast Plaza (Costa Mesa) and Del Amo Fashion Square (Torrance). Fashion Valley is sufficiently well located to become a "super regional" in the trade area. The only approach for a center such as Fashion Valley to take in order to remain competitive in the marketplace is for the center to offer a wide diversity of merchandise, goods, and services in both the department stores and mall shops. With power centers and other shopping centers inside and outside the City of San Diego taking market share away from Fashion Valley, the enlargement to the "super regional" category, with all of the variety and amenities that this type of expanded center offers, is the most feasible approach to be taken.

If Fashion Valley does in fact expand to become a "super regional" center similar to those other "super regional" centers cited in this letter, it can expect to not only maintain market share but to attract new sales to the city by residents living outside the city, state and country. The respective sizes and breakdown of department stores of the other "super regional" centers cited earlier are listed below.

#### South Coast Plaza/Crystal Court

Total SF - 2,918,000

#### Department Stores

- . The Broadway
- . Bullocks
- . Bullocks Men's Store
- . Emporio Armani
- . Nordstrom
- . Robinsons May
- . Saks Fifth Avenue
- . Sears

## Statement of Overriding Considerations

The decisionmaker, pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15093, having balanced the benefits of the project against its unavoidable environmental effects, which remain notwithstanding the mitigation measures incorporated into or required as conditions of approval of the project and described in the EIR, nevertheless determines that the benefits of the project clearly outweigh the unavoidable adverse environmental effects. The specific reason for this determination is that approval of the project will result in significant public benefits, listed below, that will aid in the timely and cost-effective implementation of needed public improvements in the project area.

- The proposed project includes flood control improvements that would lower 100-year flood levels below the finished floors of the Shopping Center retail spaces. Through project implementation, the existing retail areas will be more adequately protected from extreme storm flooding conditions. Therefore, the project will result in increased flood protection for the existing Fashion Valley Shopping Center retail areas and reduce flood hazards to general public in the area.
- The project Applicant will provide dedication of right-of-way for Fashion Valley transit center and LRT facilities in accordance with MTDB standards.
- The project Applicant will pay for the cost of all replacement parking necessitated as a result of parking lost to various planned public improvements. The estimated cost of these improvements is over \$10 million.
- The project Applicant, following issuance of building permits, will provide an irrevocable offer of dedication of right-of-way within the project boundaries for Hazard Center Drive and Camino de la Reina, including special requirements for the LRT line.
- The Applicant will waive the right to oppose a special assessment district formation for the construction of Hazard Center Drive and Camino de la Reina, or at its option contribute its fair share of said costs.
- The Applicant will waive the right to oppose the formation of an assessment district proceeding for the ultimate implementation of the Atlas River channel improvements immediately adjacent to its property, or at its option contribute its fair share of said costs.

**Mitigation Monitoring and Reporting Program  
Fashion Valley Center Expansion  
Mission Valley Development Permit  
and Conditional Use Permit  
DEP No. 93-0437**

The California Environmental Quality Act (CEQA) requires that a mitigation monitoring and reporting program be adopted on certification of an environmental impact report (EIR) to assure that the mitigation measures are implemented (Public Resources Code Section 21081.6). The mitigation monitoring and reporting program for the Fashion Valley Center Expansion Project is under the jurisdiction of the City of San Diego and is described below.

**A. Traffic Circulation and Access**

As conditions of approval of the Mission Valley Development Permit, irrevocable offers of dedication of land for the Fashion Valley Transit Center, the Light Rail Transit (LRT) facilities, and public streets and participation in the Public Facilities Financing Plan (PFFP) will be required. Also, as a condition of approval of the Mission Valley Development Permit, a traffic signal shall be installed at the south shopping center driveway intersection with Fashion Valley Road. The traffic signal would be installed by the Fashion Valley Shopping Center expansion project or by the transit center, whichever project is implemented earliest. The project that installs the signal would be able to seek reimbursement for 50 percent of the cost from the later project. Installation and operation of the signal shall be coordinated with Metropolitan Transit Development Board (MTDB), to the satisfaction of the City Engineer. In addition, Fashion Valley Shopping Center would agree not to oppose the formation of assessment districts for the future extension of Hazard Center Drive and Camino de la Reina and its river crossing. No further mitigation is required.

**B. Land Use, Urban Design, and Aesthetics**

The applicant has agreed to include mitigation for significant visual quality impacts. These measures are listed below and would partially mitigate the significant impact. For the proposed project, the following mitigation measures shall be included as conditions of approval of the Mission Valley Development Permit:

1. At least four open view and pedestrian access corridors would be provided along the river frontage between the trolley station and the eastern property line. Each corridor would be at least 100 feet in width except that one of the corridors would be at least 120 feet in width. Corridors would contain non-contiguous five-foot sidewalks with eight-foot landscaped parkways on both sides of the drive aisle in

3. The applicant must retain a qualified wildlife biologist to survey the adjacent riparian habitat no earlier than two weeks prior to the initiation of construction activities to determine the presence of nesting sensitive avian species or other sensitive wildlife. This survey will include not only the riparian area but also the trees on the southern border of the project site that could serve as nest sites. If no such species are detected, construction may commence and continue without further mitigation requirements.
4. If sensitive species, especially nesting raptors, are discovered during the survey, appropriate measures for the particular species and location shall be implemented. The construction contract for the project must stipulate this requirement. Appropriate mitigation shall be developed by the consulting biologist in consultation with the applicant, the construction contractor, and the Environmental Analysis Section of the City of San Diego Planning Department. Mitigation shall be designed to reduce project impacts to a level which is less than significant, while allowing construction to proceed on a normal schedule if possible. Possible mitigation measures could include, but are not limited to, the construction of temporary noise barriers, use of electric tools in place of internal combustion-powered tools, limitation of hours for construction, and redirection of construction to other parts of the project site during the nesting season.
5. At the completion of mitigation, the consulting biologist shall prepare and file a report with the Environmental Analysis Section of the Planning Department, stating the results of surveys, the mitigation measures employed, and their completion.

#### **D. Air Quality**

While the project incorporates a number of features that conform to regional strategies to reduce cumulative air quality impacts, the contribution to significant cumulative impacts identified for the Mission Valley Community Plan cannot be mitigated. Only adoption of the no project alternative would avoid the project's contribution to cumulative air quality impacts. However, adoption of the no project alternative would not eliminate the cumulative impact on a regional level. As previously stated, the City Council, when it adopted the Mission Valley Community Plan and Planned District Ordinance (PDO), adopted findings and a statement of overriding considerations for the significant cumulative impacts to traffic and air quality.