

RESOLUTION NUMBER R- 290612

ADOPTED ON AUG 04 1998

WHEREAS, on March 19, 1997, Cousins MarketCenters, Inc., submitted an application to the Development Services for a General Plan/Community Plan Amendment, Vesting Tentative Map, Planned Commercial Development Permit, Planned Residential Development Permit, Resource Protection Ordinance Permit and Conditional Use Permit for the Mira Mesa MarketCenter Project; and

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

WHEREAS, the issue was heard by the Council on AUG 04 1998, 1998; and

WHEREAS, the Council of The City of San Diego considered the issues discussed in Environmental Impact Report No. 96-7371; NOW, THEREFORE,

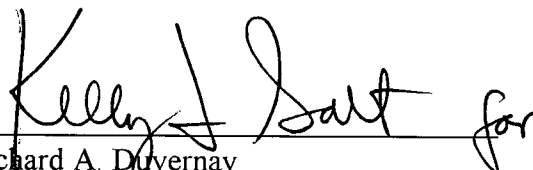
BE IT RESOLVED, by the Council of The City of San Diego, that it is certified that Environmental Impact Report No. 96-7371, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the report reflects the independent judgment 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 in connection with the approval of various actions for the Mira Mesa Market Center project.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081 and California Code of Regulations section 15091, the City Council 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 Code of Regulations section 15093, the City Council 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 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: CASEY GWINN, City Attorney

By  for  
Richard A. Duvernay  
Deputy City Attorney

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07/28/98  
Or.Dept:Dev.Svcs.  
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FINDINGS AND STATEMENT OF  
OVERRIDING CONSIDERATIONS

LDR No. 96-7371

Draft: June 25, 1998

SCH No. 97051044

The California Environmental Quality Act (CEQA), Public Resources Code § 21000 *et seq.*, requires that no public agency shall approve or carry out a project for which an Environmental Impact Report (EIR) has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

(a) The public agency makes one or more of the following findings with respect to each significant effect:

- (1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
- (2) Those changes or alternations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
- (3) Specific economic, social, technical, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project identified in the environmental impact report.

(b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

(CEQA § 21081)

CEQA further requires that, where the decision of the public agency allows the occurrence of significant effects which are identified in the Final EIR, but are not at least substantially mitigated, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. (CEQA Guidelines § 15093)

The following Findings and Statement of Overriding Considerations have been submitted by the project applicant as candidate findings to be made by the decision making body. The Environmental Analysis Section of the Development Services Department does not recommend that the discretionary body either adopt or reject these findings. They are attached to allow readers of this report an opportunity to review the applicant's position on this matter.

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CANDIDATE FINDINGS FOR  
*MIRA MESA MARKETCENTER*

LDR No. 96-7371

SCH.No. 97051044

INTRODUCTION

The *Mira Mesa MarketCenter* project proposes the development of a mix of land uses, including retail commercial, a cinema and entertainment complex, office and multiple-family residential, to support the expanded transit opportunities planned for this area and to serve the Mira Mesa Community and surrounding uses. Specific City of San Diego discretionary actions required for project implementation are an Amendment to the City's Progress Guide and General Plan and to the Mira Mesa Community Plan, a Planned Commercial Development Permit (PCD), a Conditional Use Permit (CUP) for theater uses within the PCD, a Planned Residential Development Permit (PRD), a Rezone from A-1-10 (Agricultural, 10-acre minimum lot size) to CA (Area Shopping Center), a Vesting Tentative Map, Street Actions, and a Resource Protection Ordinance (RPO) Permit with deviation findings.

Implementation of the proposed project requires additional approvals relative to on-site disturbance of sensitive habitats. Specifically, the project has been issued a Nationwide 404 permit from the Army Corps of Engineers (ACOE), and a Section 7 consultation under the Federal Endangered Species Act has been completed for impacts to San Diego fairy shrimp which have been observed in a small portion of the vernal pools on the site. The project applicant has worked closely with City staff, ACOE and USFWS to develop an acceptable mitigation program for impacts to sensitive biological resources, including vernal pools. Section 4.2, BIOLOGICAL RESOURCES, of the Final EIR outlines the agreed upon mitigation program. Based on the on-going discussions with ACOE and USFWS and with incorporation of the agreed upon mitigation program, the Nationwide 404 permit has been issued.

An amendment to the Progress Guide and General Plan would be necessary to implement the proposed project. The Progress Guide and General Plan (April 1996) designates the project site for Residential Neighborhood, Office and Specialized Commercial, and Commercial Recreation land uses. The proposed amendment to the Progress Guide and General Plan would change the existing designations to Residential Neighborhood and Commercial Community and Regional Center designations to allow commercial, limited office, entertainment and residential development on the site. The project also proposes an amendment to the Mira Mesa Community Plan to allow for the residential and commercial development of the project site. The site is currently designated for Institutional (Hospital) and Visitor Serving Commercial Recreation land uses in the Mira Mesa Community Plan. The Residential and Commercial land use designations would allow for development of a mix of land uses, including entertainment, retail commercial, limited office and residential land uses, at an intensity which can support existing and planned transit opportunities.

In order to implement the proposed retail commercial, office and entertainment land uses, a Planned Commercial Development (PCD) is proposed on approximately 39.89 acres on the northern portion of the project site. The PCD would allow approximately 479,451 square feet of neighborhood commercial, limited office, entertainment and restaurant uses. The San Diego Municipal Code requires a Conditional Use Permit (CUP) for theater uses when such uses exceed 5,000 square feet in size. The project proposes approximately 83,100 square feet of theater uses; therefore, a CUP would be required for the cinema portion of the project.

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A Planned Residential Development (PRD) is proposed in the southeastern portion of the site. The PRD proposes to develop approximately 422 luxury units, with interior amenities typically seen in single family homes. Units are planned as three-story structures with attached garages, breezeway garages, carports and surface parking. Recreational amenities would include a clubhouse with exercise and media rooms and a swimming pool.

The project proposes rezoning the site from A-1-10 (Agricultural, 10-acre minimum lot size) to CA (Area Shopping Center) to accommodate the mix of uses anticipated for the project. The proposed CA Zone would allow development of the site with the proposed retail, office, entertainment and residential uses and would be in accord with the proposed land use designations associated with the amendments to the Progress Guide and General Plan and the Mira Mesa Community Plan.

A Vesting Tentative Map (VTM) is proposed to implement the development plans for the proposed *Mira Mesa MarketCenter* project. The VTM proposes a balanced finished grading operation involving approximately 119,000 cubic yards of earthwork. A total of 15 lots would be created as a part of the PCD and two lots created as part of the PRD.

The City of San Diego regulates development of environmentally "sensitive" lands through the Resource Protection Ordinance (RPO). The Resource Protection Ordinance applies to wetlands, wetland buffers, floodplains, hillsides, biologically sensitive lands and significant prehistoric and historic resources. Because sensitive habitats (vernal pools and coastal sage scrub vegetation) occur on portions of the project site, in accordance with Section 101.0462 of the San Diego Municipal Code, a Resource Protection Ordinance Permit and deviation findings will be required.

## FINDINGS

According to the California Environmental Quality Act (CEQA) and CEQA Guidelines, "no public agency shall approve or carry out a project for which an EIR has been completed which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects accompanied by a brief explanation of the rationale of each finding." (CEQA Guidelines § 15091.) The following findings are made relative to the conclusions of the Final Environmental Impact Report (EIR) for the *Mira Mesa MarketCenter* project.

- A. **Public Resources Code Section 21081(a)(1):** Pursuant to Public Resources Code Section 21081(a)(1), the decision maker, having reviewed and considered the information contained in the Final EIR for the project, the public record and the administrative record, finds, pursuant to CEQA and the State CEQA Guidelines, that *changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environmental* as identified in the Final EIR with respect to Land Use, Transportation/Circulation, Air Quality; Biological Resources; Noise; Hydrology/Water Quality; Public Facilities and Services (Solid Waste and Schools); and Paleontological Resources. With the exception of direct and cumulative impacts associated with Transportation/Circulation, and cumulative impacts associated with Biological Resources and Air Quality, mitigation measures would be implemented that would reduce identified significant impacts to below a level of significance.

1. **Land Use**

**Impact:** The project would require an amendment to change the existing land use designations to reflect the proposed commercial and residential land uses. When the requested plan amendment is

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adopted as proposed, the conflict between the proposed development and adopted land use plans would be eliminated.

The proposed project is not in compliance with the City's Resource Protection Ordinance (RPO) relative to sensitive biological resources. Based on the Encroachment Table for Hillsides and Biologically Sensitive Lands contained in the RPO, no encroachment into these disturbed resources would be permitted. The project proposes grading the entire site and would exceed the allowable encroachment established by the RPO. In cases where a development plan does not comply with the encroachment allowance established by RPO, the project may be approved through the deviation provision of RPO. City Council approval of RPO findings for a deviation would be necessary for project approval.

***Finding:*** Direct impacts to on-site resources, including Diegan coastal sage scrub, wetlands and vernal pools, would be reduced to below a level of significance through implementation of the mitigation measures described in Finding 2, below. The implementation of the Mitigation Monitoring and Reporting Program (MMRP) for Biological Resources and adoption of the deviation findings for RPO would reduce the impacts associated with RPO to below a level of significance.

## 2. BIOLOGICAL RESOURCES

***Impact:*** The entire site would be finish graded in conjunction with the proposed project. This would effectively eliminate all biological resources found on the site. Those resources that would be significantly impacted include low quality vernal pools, disturbed wetlands, Diegan coastal sage scrub, and chamise chaparral/Diegan coastal sage scrub. Of the plant and animal species occurring on the site, only impacts to the San Diego golden star and the San Diego fairy shrimp are considered significant. Of those plant species that have potential to occur on the site, impacts to San Diego thorn-mint, San Diego button celery, and San Diego mesa mint, should they be found, would be significant due to their state or federal listing as endangered.

***Finding:*** Mitigation measures would be included as conditions of approval of the Vesting Tentative Map. Mitigation ratios have been established for the loss of vernal pools and Diegan coastal sage scrub habitat, in accordance with the City's Biological Guidelines. Mitigation measures are described in Section 4.2 of the Final EIR and would be in the form of off-site acquisition of habitat within and outside the City's Multiple Habitat Preserve Area (MHPA) and the creation of additional vernal pool habitat off-site in the acquired area. Prior to approval of the issuance of any grading permits and/or recordation of the first Final Map, proof of the obtainment of the 404 permit shall be submitted to the City Manager. Implementation of these measures would reduce direct impacts to biological resources to below a level of significance.

## 3. Transportation and Circulation

***Impact:*** The proposed project would generate approximately 33,656 cumulative ADT, with 1,617 ADT occurring in the morning peak and 4,197 ADT in the evening peak. The Traffic Study analysis indicates that the proposed project would not substantially increase area traffic above that which is assumed in the community plan or the previous Kaiser development plan. The project would impact four existing roadway segment operations—Mira Mesa Boulevard west of Black Mountain Road, Mira Mesa Boulevard from Black Mountain to Westview Parkway, Westview Parkway north of Mira Mesa Boulevard, and Mira Mesa Boulevard from Westview Parkway to I-15—resulting in significant impacts at these locations. A significant impact also would occur at the intersections of

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Mira Mesa Boulevard and Black Mountain Road, Mira Mesa Boulevard and Westview Parkway, and Black Mountain Road and Hillery Drive. Additionally, the project would add an increment to traffic volumes on I-15 in areas where an LOS F is forecast.

**Finding:** In light of the project's traffic impacts, the developer has agreed to construct or modify traffic lanes on surrounding roadways, install or modify traffic signals on those same roadways, and to participate in fair share improvements to the Mira Mesa Boulevard/Black Mountain Road intersection. Implementation of these measures, which are fully described in Section 4.3 of the Final EIR, would reduce, although not to below a level of significance, direct and cumulative Transportation/Circulation impacts.

There are no measures at the project level which would fully mitigate direct and cumulatively significant regional traffic impacts associated with the project. REDUCED INTENSITY DEVELOPMENT and the BIOLOGICALLY SUPERIOR PRESERVATION OF VERNAL POOLS project alternatives, addressed in Section 9.6 of the Final EIR, would reduce the project's incremental contribution, but not to below a significant level. Only the NO PROJECT alternative would avoid the project's incremental contribution to significant traffic volumes on I-15. It should be noted, however, that implementation of the NO PROJECT alternative would not eliminate cumulatively significant regional traffic impacts to the I-15 freeway. Cumulatively significant impacts will occur on I-15 due to traffic contributions of other past, present and reasonably foreseeable future projects.

#### 4. Air Quality

**Impact:** The project as proposed would contribute to cumulative air quality impacts associated with a "non-attainment" air basin (San Diego Air Basin) due in part to unacceptable levels of service (LOS E and F) at nearby intersections and interchanges along the I-15 corridor. The traffic associated with the proposed project would also result in air pollutant emissions that may impact local and regional air quality. These emissions derive mainly from mobile sources associated with individual project-related transportation needs. The mobile nature of these emissions is such that no single receptor site is significantly impacted. Rather, the emissions associated with the proposed project would mix with those from numerous, similar developments throughout the San Diego Air Basin.

**Finding:** With implementation of standard City requirements for temporary construction impacts, direct air quality impacts would not be significant. However, traffic generated by the project would contribute to the cumulative air quality impacts in the San Diego Air Basin.

Measures incorporated into the project, including the project's convenient location and its adjacency to transit opportunities, would not fully mitigate the project's contribution to regionally significant air quality impacts. Adoption of the NO PROJECT ALTERNATIVE would eliminate the project's contribution and thus avoid the cumulative significant air quality impact. Adoption of the COMMUNITY PLAN DESIGNATION ALTERNATIVE, one of the BIOLOGICALLY SUPERIOR ALTERNATIVES or the REDUCED INTENSITY ALTERNATIVE would reduce the cumulative impact, but not to below a level of significance.

**Impact:** The project has the potential to result in direct air quality impacts associated with temporary construction activities.

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**Finding:** Adherence to standard City requirements relative to dust control and other measures implemented during construction activities would avoid significant impacts associated with construction related air quality impacts.

## 5. Noise

**Impact:** The primary sources of noise that would impact the project site and vicinity would be construction noise during development of the *Mira Mesa MarketCenter* project, and traffic noise. Upon completion of the proposed project, project-related traffic would cause an incremental increase in area-wide noise levels throughout the Mira Mesa area. A potential concern would be from project access traffic noise relative to nearby homes and/or the San Diego Miramar College. Similarly, on-site uses may be affected by off-site roadway traffic noise, particularly the proposed residential component. With MCAS Miramar noise impact area located well away from Mira Mesa, the long-term noise analysis focus is on traffic noise.

The project noise impact study indicates an insignificant noise impact from project-related traffic on San Diego receptors. Portions of the project site itself, however, could be exposed to noise levels in excess of the city noise limits. On-site and adjacent off-site residential uses could also be exposed to nuisance noise levels from commercial retail activities.

**Finding:** Measures described in Section 4.5 of the Final EIR would be implemented to mitigate noise impacts associated with the project to below a level of significance. All construction and general maintenance activities would be limited to the hours restricted by the Municipal Code. An exterior and interior acoustical study would be prepared for the residential development and subject to approval prior to the issuance of building permits. If either the exterior or interior noise analyses determine that the preferred method of attenuating noise levels includes the use of berm(s), wall(s) or berm/wall combination(s), then such physical noise attenuating features shall be limited to the southern panhandle portion of the site and shall not exceed 12 feet in height. Landscaping shall be installed on the exterior and interior side of the berm, wall or berm/wall combination sufficient to screen views and soften the appearance of the noise attenuation. Additionally, any wall construction shall be aesthetic in appearance on all sides and shall reflect the architectural style of the residential development proposed for the site.

## 6. Hydrology/Water Quality

**Impact:** The *Mira Mesa MarketCenter* project site is located in the Miramar Reservoir Hydrologic Area which is part of the Peñasquitos Hydrologic Unit. The proposed project would add an incremental amount of urban pollutants entering Los Peñasquitos Lagoon. The proposed project would result in the creation of impervious surfaces, such as streets, parking areas and rooftops, where contaminants tend to accumulate and are flushed to natural drainage channels via planned drainage infrastructure. The accumulating effects of artificial surfaces and efficient storm drain facilities during rainy periods tends to increase the potential for the conveyance of these contaminants.

Implementation of the proposed project, when considered in conjunction with other projects or existing urban development within the Los Peñasquitos Creek watershed, could exacerbate the environmental impacts associated with drainage and watershed preservation and could further affect the hydrologic, hydraulic, and water quality of Los Peñasquitos Lagoon. The creation of impervious surfaces would cause an increase not only in the quantity of runoff, but also a decrease in the



quality. The pollutants could ultimately have diminishing effects on the water quality in streams and lagoons. This impact is considered potentially significant on a cumulative level.

**Finding:** The project would be required to adhere to local and regional requirements relative to the stormwater discharge. The City has developed a Best Management Practices (BMP) Manual for stormwater and urban runoff pollution control, detailing control and prevention measures to be implemented on a City-wide basis. Implementation of appropriate BMPs would mitigate the project's contribution to the cumulative water quality impacts. Adherence to such requirements would reduce direct and cumulative impacts to below a significant level.

## 7. Public Facilities and Services

**Impact:** The *Mira Mesa MarketCenter* project would not result in significant impacts to existing public facilities and services that serve the surrounding community. These facilities and services include fire and police protection, water service, sewer service, solid waste disposal, school facilities, public parks and recreational facilities and libraries.

Water supply for the project and the surrounding community would not be adversely affected by the proposed project. The San Diego County Water Authority (CWA) states that it is capable of providing potable water in quantities required by its member agencies and will provide water to approved projects in Mira Mesa. It can be assumed that an adequate supply would be available to serve the *Mira Mesa MarketCenter* project area. Also, the project proposes no improvements on the CWA easement on the property that would in any way conflict with the CWA's ability to provide drinking water to the region.

The City of San Diego is responsible for solid waste disposal in the project area. Solid wastes generated at the project site would be transported to the Miramar Landfill which is owned and operated by the City of San Diego. Landfill capacity would be available to serve the proposed project, and recycling would be incorporated in development plans in accordance with the requirements of the Integrated Waste Management Act and the City of San Diego. The proposed project's impacts to landfill capacity are not considered significant on a project-specific level.

It is anticipated that there would not be adequate capacity in area schools to serve the proposed project at buildout. Generation rates supplied by the San Diego Unified School District result in the potential for 93 school-age children from this project. Without development of the *Mira Mesa MarketCenter* project, Scripps Ranch High School is currently projected to be significantly over capacity and Walker Elementary School is projected to be close to capacity.

The project would incrementally impact existing recreational facilities, local libraries and police and fire protection in the area, although not to a level of significance. As conditions of project approval, appropriate fees shall be paid to accommodate incremental impacts to recreational facilities, local libraries and police and fire services.

**Finding:** The applicant shall demonstrate that appropriate school payments have been made to the San Diego Unified School District (SDUSD) prior to recordation of each building permit. Payment of these school fees would reduce the project's impacts to schools to below a level of significance.

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## 8. Paleontological Resources

**Impact:** The proposed project has the potential to impact important paleontological resources in the Lindavista Formation located on the site, particularly through the excavation of foundations and building footings. The entire project site is proposed to be graded in conjunction with the *Mira Mesa MarketCenter* project. Impacts to potentially important paleontological resources are regarded as significant.

**Finding:** Measures would be implemented to mitigate impacts to paleontological resources to below a level of significance. A qualified paleontologist would be present at pre-grading meetings and throughout the grading process in the Lindavista Formation. Any fossils collected shall be preserved and donated to a museum or other public, non-profit institution with a research interest in the materials. A final monitoring report would then be prepared, approved by the City and filed with the San Diego Natural History Museum. No building permits would be issued until the monitoring report has been submitted and approved.


## 9. Cumulative Effects

**Impact:** The proposed project would contribute to the cumulative effects associated with ongoing urbanization in the Mira Mesa area. The project cumulatively affects biological resources (wetlands), air quality and traffic circulation.

**Finding:** The cumulative impact area for air quality is considered to be the entire San Diego Air Basin. Project-generated emissions, when considered with emissions from existing and reasonably foreseeable future projects, would cumulatively contribute to projected exceedances of ambient air quality standards in the San Diego Air Basin. Trip reduction measures are available to projects in the area which can help reduce cumulative impacts. Trip reduction measures include use of park-and-ride facilities, and mobility options, such as car pooling, transit and bicycles. An existing park-and-ride facility is located at I-15 and Westview Parkway, and the project would provide a park-and-ride facility through a shared use agreement with the Metropolitan Transit Development Board (MTDB). In addition, the proposed project integrates a mix of uses and incorporates a pedestrian-oriented design to encourage alternative modes of transportation.

The proposed project would not substantially increase area traffic above that which is assumed in the community plan or the previous Kaiser development plan. The project would add an increment to traffic volumes on I-15 in areas where an LOS F is forecast. This would be regarded as an unmitigated significant cumulative impact. The project would implement measures which would reduce, but not fully mitigate its impacts to the circulation network. Additionally, other future planned improvements, including completion of SR 56 and ultimate improvements to Black Mountain Road, may tend to alleviate future congestion in the project area.

The proposed project would result in the loss of 0.20 acre of low to moderate quality vernal pools and 0.02 acre of disturbed wetland vegetation, resulting in significant direct and cumulative impacts to biological resources. The project would mitigate its direct impacts, as well as its incremental contribution to the significant unmitigated cumulative loss of wetlands on a regional level, to below a level of significance through the off-site acquisition and creation of vernal pool habitat within the City's MHPA. On the regional level, cumulative impacts associated with the region-wide loss of wetlands would remain significant and unmitigated.

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- B. *Public Resources Code Section 21081(a)(2)*: The decision maker, having independently reviewed and considered the information contained in the final EIR for the project and the public record, finds that there are no changes or alterations to the project which avoid or substantially lessen the significant environmental impacts that are *within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.*
- C. *Public Resources Code Section 21081(a)(3)*: The decision maker, having reviewed and considered the information contained in the final EIR for the project and the public record, finds that *specific economic, social, technical, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the environmental impact report.* Specifically:

1. **INFEASIBILITY OF ADDITIONAL MITIGATION**

There are no additional feasible mitigation measures presented in the EIR which have not been incorporated as part of the project.

2. **INFEASIBILITY OF PROJECT ALTERNATIVES**

- a. **Alternatives Previously Considered But Rejected.** The plan evolution process for the project included consideration of site designs with varying focuses on land uses and intensities of development.

**INITIAL PRELIMINARY DEVELOPMENT PROPOSAL BY THE PROJECT APPLICANT.**

A conceptual development plan for the site was prepared by the project applicant, COUSINS MARKETCENTERS, INC., and its design team. The Initial Preliminary Development Proposal suggested a development intensity and residential density similar to the proposed project. That plan was reviewed by City staff and representatives of MTDB and the San Diego Miramar College and was the subject of a comprehensive review and meeting of the City's Process 2000 section.

*Finding.* The results of the initial review of the preliminary proposal resulted in the compilation of a set of comments. The comments indicated that the project was not in accord with long range plans of MTDB. The applicant subsequently held several meetings with MTDB, focusing on a project redesign which would more closely satisfy MTDB's planning goals. The original project proposal was then dropped in favor the proposed project design.

**DEVELOPMENT OPTION FOR PROJECT SITE AS DEFINED IN THE MIRA MESA**

**COMMUNITY PLAN.** One project concept that was considered but rejected during early design phases was development of the project site under the optional land use scenario presented in the Mira Mesa Community Plan. The Mira Mesa Community plan designates the project site for hospital and visitor commercial land uses. However, specific proposals contained in the Community Facilities Element of the Mira Mesa Community Plan for the project site state that if the property does not develop with a hospital and support medical offices and laboratories on the westerly half of the site and visitor commercial uses on the easterly half of the site, as recommended on the community plan land use map, then a mixed-use project (including office, support commercial, and residential uses) should be proposed.

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Conceptual land uses and development intensities were evaluated which placed a greater focus on office uses and less on commercial retail.

*Finding.* Based on market demand and the economic feasibility of office uses in this area, it was determined that the Mira Mesa community does not have a need for substantial additional office space. Also, market analyses identified a lack of an entertainment center, such as that proposed by the project. Although the proposed project proposes a mixed-use development of entertainment, retail commercial and residential land uses on the project site in a manner similar to the description for Site Specific Proposals contained in the Commercial Land Use Element, the project places a greater focus on retail commercial and entertainment land uses and less on office uses.

Developing the site with the optional uses specified in the community plan would not result in a substantial reduction of environmental impacts associated with the project. The optional concept presented in the community plan suggests that the entire site be developed, similar to the proposed project, resulting in the loss of sensitive biological resources; and traffic impacts associated with the level of land uses suggested by the community plan's development option would be similar to those associated with the proposed project.

DEVELOPMENT AS PREVIOUSLY PROPOSED BY THE KAISER TM (85-0542). In 1985, Kaiser submitted a Tentative Map for the project site which proposed a 413-room hospital and 1.3 million square feet of medical office space. As presented in Section 4.3, TRANSPORTATION/ CIRCULATION, the medical office would generate approximately 65,000 daily trips and the hospital would generate 8,620 daily trips. The total Kaiser project would have generated 73,260 daily trips, as compared to the 45,067 daily trips (33,656 cumulative trips) generated by the proposed project.

*Finding.* Development of the project site as proposed by the Kaiser TM has been rejected due to a change in market demand for additional hospital and medical office uses and the potential for substantial impacts to traffic circulation in the community.

COMMERCIAL DEVELOPMENT OF ENTIRE PROJECT SITE. In 1994, a previous project applicant submitted to the City of San Diego a development option which proposed a 645,194 square foot "big box" commercial center on the entire 66-acre site. Specific uses considered under this concept included uses similar to those of the proposed project with the exception that no residential development was proposed and the theater portion of the site, which was 36,100 square feet in size, did not include the full complement of entertainment features associated with the proposed project's entertainment center. The pedestrian plaza and linkage of land uses was also not included in this alternative. Additionally, this earlier proposal did not include the extension of Westview Drive (MarketCenter Drive) through the property; instead, access was limited to Mira Mesa Boulevard and Hillery Drive.

*Finding.* As a result of City review of the previous submittal, staff determined that the concept did not meet the intent of the mixed-use option addressed in the community plan or the City's Land Guidance Program. Additionally, the deletion

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of the extension of Westview Drive (MarketCenter Drive) was determined to be inconsistent with the future street recommendations of the community plan. Therefore, this earlier concept has been rejected.

DEVELOPMENT OF MIX OF USES INVOLVING LAND EXCHANGE WITH SAN DIEGO MIRAMAR COMMUNITY COLLEGE. The developer previously pursued a land exchange with San Diego Miramar Community College. The approximately 5.15-acre panhandle portion of the *Mira Mesa MarketCenter* property would have been exchanged for approximately 5.15 acres of college property located immediately to the south of the residential development proposed for the project. Under this option, Westview Parkway (MarketCenter Drive) would have been extended approximately 200 feet south of the existing terminus of Hillery Drive. To the south of Hillery Drive would have been the location of a bus transfer station and park-and-ride lots. This 3.7-acre area would have been developed separately by the Metropolitan Transit Development Board (MTDB). On the north side of Hillery Drive, approximately 0.73 acre has been set aside for development of a non-exclusive park-and-ride/shared parking area for use by residents, transit riders, guests and visitors of the PRD. Improvement of the park-and-ride facility would have been the responsibility of the developer of the PRD. Under this alternative, residential development would have occurred on approximately 14.97 acres (including the land exchange). A total of 432 multiple-family units would have been constructed in this area. The panhandle portion of the project under this alternative would have become part of the college master plan for development with college uses.

Finding. This alternative was rejected because the land exchange with the community college did not come to fruition.

DEVELOPMENT OF MIX OF USES WITHOUT TRANSIT-ORIENTED DESIGN. The developer previously pursued a development plan similar to that proposed under the land exchange alternative, except that it would not involve a land exchange with the college. Residential development would have occurred on approximately 9.9 acres north of the extension of Hillery Drive. In this area, approximately 290 multi-family units would have been constructed. A portion of the panhandle area (approximately two acres) would have been made available to MTDB for purchase and development as a park-and-ride facility. Development of the southern portion of the panhandle (approximately 4.78 acres) would have been determined at some future time and could have potentially developed with uses allowed in the CA zone, including apartments, recreational facilities, hotels and motels, restaurants, and theaters. Approximately three acres located immediately south of the extension of Hillery Drive and outside of the project boundaries would have been the site of a bus transfer facility to be developed by MTDB.

Finding. This alternative was rejected in favor of the proposed project because it would not have incorporated transit-oriented design ("TOD") features that would be implemented under the proposed project.

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**b. No Project Alternatives**

Under the *No Project Alternative*, the property would be left as a vacant site. Mixed-use development as proposed by the project would not occur. Additionally, improvements to and completion of portions of the community circulation system, including widening of Mira Mesa Boulevard and Hillery Drive and the extension of Westview Drive (MarketCenter Drive), and setting aside approximately 0.73 acres of the project site for a future Park and Ride facility would not take place.


*Finding.* The *No Project Alternative* would result in the elimination of significant impacts associated with the project, including direct traffic impacts, impacts to Diegan sage scrub vegetation and vernal pools, and potential impacts to paleontological resources. This alternative would also eliminate incremental contributions to traffic, urban runoff, solid waste, schools and air quality. The No Project Alternative could result in a greater impact to hydrology associated with erosion of the site and sediment transport. The No Project Alternative has been rejected as infeasible because it would not attain the project's primary objectives. The No Project Alternative would not provide for a mixed use project and would not fulfill the goals of the Mira Mesa Community Plan, the City's Land Use Guidance Program and the needs of the community. It would not provide for the creation of an entry into the community and would not implement much needed roadway improvements in the community. Although the No Project Alternative would temporarily avoid impacts to on-site vernal pools, it would not provide for the long-term preservation of higher quality vernal pools.

**c. Development under Recommended Community Plan Land Uses**

The *Development Under Recommended Community Plan Land Uses Alternative* would develop the site with land uses as recommended by the community plan. Specifically, the western portion of the site would be developed as a hospital, with support medical offices and laboratories; and the eastern portion of the site would be developed with visitor commercial uses. The traffic study prepared for the community plan assumed the community plan land use designations for development of the site. Therefore, for evaluation purposes, the analysis of this alternative assumes that development intensity. Additionally, because the circulation plan for the community identifies Westview Parkway (MarketCenter Drive) as extending through the site, as the project proposes, this alternative also includes the completion of that circulation element roadway.

*Finding.* Redesigning the project to implement the community plan's recommended land use designations would result in many of the same environmental effects as the proposed project, including direct impacts to biological and paleontological resources; impacts to traffic circulation; and cumulative impacts to air quality, water quality and solid waste. This alternative could result in the potential to generate hazardous waste. Implementation of this alternative would eliminate impacts to schools but would increase impacts associated with adverse noise levels.

This alternative has been rejected as infeasible because it would not attain many of the project's objectives, particularly as it relates to providing a mixed use project

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which incorporates retail, entertainment, office and residential uses. Uses anticipated by this alternative would not support mobility options to the extent that the proposed project would. Environmental effects found to be significant and unmitigated under the project (i.e., cumulative biology, traffic and air quality) would not be eliminated under this alternative. Therefore, this alternative is not environmentally superior.

#### d. Reduced Development Intensity Projects

Two *Reduced Development Intensity Project Alternatives* have been evaluated which result generally in a 25 percent and 50 percent reduction in the overall development intensity of the project. The focus of these *Reduced Development Intensity Alternatives* is to reduce or avoid potential impacts associated with the proposed project, including cumulative traffic impacts, cumulative air quality impacts, direct impacts to vernal pool habitat, noise impacts to the residential portion of the project, water quality impacts, solid waste generation and student population. The focus of the *25 Percent Reduced Development Intensity Alternative* is on a reduction in development area to lessen impacts to on-site biological resources. The *50 Percent Reduced Development Intensity Alternative* focuses on a 50 percent reduction in overall development square footage and a 50 percent reduction in the number of dwelling units spread over the same development area as that for the proposed project. These two *Reduced Development Intensity* alternatives are addressed in greater detail below.

**25 PERCENT REDUCED DEVELOPMENT INTENSITY ALTERNATIVE.** A total of 64 vernal pools occur on the project site encompassing about 0.20 acre of surface area. The majority of the pools generally occur in the northern and southern portion of the project site. A primary purpose in developing the *25 Percent Reduced Development Intensity* alternative is the preservation of as many of the vernal pools as possible, while leaving the general development focus of the project (i.e., a mix of commercial/ entertainment/ residential land uses) intact. This approach results in creating two, noncontiguous development areas. Under this alternative, no development, grading or enhanced streetscape treatment would occur in the area along Mira Mesa Boulevard or in the area generally between the terminus of Hillery Drive and I-15. Westview Parkway (MarketCenter Drive) would be re-aligned to the west, to avoid vernal pools, and would connect with Hillery Drive, similar to the proposed project. A corridor in the central portion of the site, between the terminus of Hillery Street and I-15, would be left undeveloped. Development under this alternative would occur as two distinct areas, totaling approximately 49 acres.

The development intensity under this alternative would be reduced from approximately 479,000 square of commercial/entertainment space proposed by the project to about 390,000 square feet of commercial development. Residential uses would occur in two linear portions of the site totaling approximately 9.9 acres. At a density of 29 dwelling units per acre, as proposed by the project, a total of 289 units could be constructed in these areas.

*Finding.* The *25 Percent Reduced Development Intensity Alternative* would result in reduced direct impacts to biological resources and student generation. This

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alternative would also result in a reduction of cumulative effects associated with water quality, air quality and solid waste, and fewer residents would be exposed to adverse noise levels. This alternative would not, however, implement the community plan's recommendation or the MTDB goal of a mix of uses or other TOD design features in support of the City's Land Guidance Program. Development would not be cohesive and would not provide the necessary connections and linkages to allow easy access and encourage use of transit facilities or pedestrian activity. The intensity of development under this alternative would not support the necessary improvements required for infrastructure, adversely affecting the efficiency of the community circulation network. Therefore, this alternative has been rejected as infeasible. Also, biologically, this alternative would only preserve low to moderate quality vernal pools that would be isolated from other natural habitat making this alternative biologically inferior.

**50 PERCENT REDUCED DEVELOPMENT INTENSITY ALTERNATIVE.** Under the *50 Percent Reduced Development Intensity Alternative*, a 50 percent reduction of commercial and residential land uses would occur. This alternative would result in approximately 240,000 square feet of commercial space and 211 residential units. The reduction in overall development intensity would result in a substantial change in the types of commercial uses which could be realized on the site. The commercial development would resemble more of a strip commercial center and would not have the high profile and quality of uses which occur under the proposed project.

*Finding.* The *50 percent Reduced Development Intensity Alternative* would result in a beneficial reduction in traffic and air quality impacts, schools and solid waste generation. Land use impacts could be increased under this alternative due to developing the site at a level of intensity which may not support transit opportunities in the area. Other environmental issues associated with this alternative would be similar to those associated with the proposed project. However, this alternative would not result in substantial environmental benefits, because it would not provide for on-site preservation of vernal pools and would not generate sufficient revenue for acquisition of off-site vernal pools. For these reasons, it has been rejected as infeasible. The applicant has submitted a confidential analysis of the economic feasibility of this alternative. That analysis has been reviewed and accepted by the City's Economic Development Department. The economic feasibility analysis is herein incorporated by reference and is on file with the City of San Diego.

#### **e. Biologically Superior Alternatives**

Three alternatives have been evaluated as *Biologically Superior Alternatives* and are specifically directed at reducing or avoiding impacts to vernal pools and/or vernal pool habitat, while allowing some development on the project site. The *Preservation of Vernal Pool Habitat Alternative* results in the greatest preservation of vernal pools but provides the smallest area for development. *Preservation of the Southern Pools Alternative* and *Preservation of the Northern Pools Alternative* result in a smaller portion of the project site being preserved in open space for

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protection of vernal pools and a greater amount of the site made available for development.

**PRESERVATION OF VERNAL POOL HABITAT ALTERNATIVE.** The *Preservation of Vernal Pool Habitat* alternative has been evaluated in order to substantially reduce impacts to vernal pools through on-site preservation. This alternative would preserve about 25 acres of the project site as undisturbed open space and would develop about 41 acres with commercial retail and multiple-family residential uses.

Development areas would not be contiguous but would be separated by preserved vernal pool habitat. Development which could occur on the site in areas not shown for preservation would be similar in use, although at substantially lower intensities and broken into two disjointed areas. The central portion of the site (approximately 35 acres) would be developed with commercial uses similar to a neighborhood or community commercial center. Based on floor/area ratio and parking requirements similar to that of the proposed project, approximately 300,000 square feet of retail commercial uses could occur in this area. Multiple-family residential units would be located on about six acres in the panhandle portion of the site. Based on a development intensity of about 24 dwelling units per acre (similar to the proposed project), 136 units would occur in this area. Under this alternative, access to commercial uses would be from Westview Parkway (MarketCenter Drive), similar to the proposed project. In order to access residential development in the panhandle portion of the site, Hillery Drive would need to be extended and improved in a manner similar to the proposed project.

*Finding.* The *Preservation of Vernal Pool Habitat Alternative* would result in a beneficial reduction in the loss of vernal pool habitat, traffic and air quality impacts, schools and solid waste generation. However, vernal pool habitat would be isolated and preserved in areas surrounded by urban development, affecting the long-term viability of the resources. Land use impacts could be increased under this alternative due to developing the site at a level of intensity which would not support transit opportunities in the area. This alternative would not be desirable for the residential developers due to the lack of connectivity to the commercial site and problems associated with access. Additionally, the small size would not allow development of resident amenities encouraged by the PRD ordinance, such as a clubhouse and pool facility and other open space areas. This alternative would not support required infrastructure improvements. Other environmental issues associated with this alternative would be similar to the analysis of those issue areas for the proposed project.

The project objectives under this alternative would not be met because of the reduced development intensity. Additionally, this alternative may not be successful due to marketability and financial obligations associated with infrastructure improvements. For these and other reasons, this alternative has been rejected as infeasible. The applicant has submitted a confidential analysis of the economic feasibility of this alternative. That analysis has been reviewed and accepted by the City's Economic Development Department. The economic feasibility analysis is herein incorporated by reference and is on file with the City of San Diego.

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PRESERVATION OF SOUTHERN POOLS ALTERNATIVE. This alternative would preserve about 8.5 acres as undisturbed open space and would develop about 58 acres with commercial and multiple-family residential uses. Development areas would not be contiguous but would be separated by the preserved vernal pool open space area. Under this alternative, two separated areas of development would occur. The northern portion of the site would develop with commercial uses. The exception would be in the southwest corner of the site. This area would be reduced in size due to the realignment of Westview Parkway (MarketCenter Drive), which would reduce the size of the major anchor tenant in this area. This alternative could not be designed to retain an equivalent amount of space.

Multiple-family residential units could be located on about six acres in the panhandle portion of the site. Based on a development intensity of about 24 dwelling units per acre (similar to the proposed project), 136 units could occur in this area. Commercial uses would be accessed from Westview Parkway (MarketCenter Drive), similar to the proposed project. Hillery Drive would be extended and a driveway access would be provided to serve the multiple-family development.

Finding. The *Preservation of Southern Pools* alternative would result in a reduction in the loss of vernal pool habitat, traffic, schools and solid waste generation. Vernal pools which would be preserved on the project site under this alternative would be isolated and surrounded by urban development. This alternative would not provide the level of intensity needed to generate revenue to support required infrastructure. Land use impacts would increase under this alternative due to developing the site as two separate uses without the integration of pedestrian connections and urban design linkages. Additionally, this alternative would preclude MTDB's plans to connect by a pedestrian promenade the bus transfer facility to the project. Further, the park and ride facility would not be implemented. It also has the potential to result in a reduction of anticipated transit use due to less residential development. Other environmental issues associated with this alternative would be similar to the analysis of those issue areas for the proposed project.

The project objectives under this alternative would not be met because of the lack of an integrated mixed-use project and reduced development intensity for residential development and potentially the commercial development. Because this alternative would not meet the project objectives and would not implement the recommendations of the community plan, TOD Guidelines and the City's Land Guidance System and for other reasons, it has been rejected as infeasible. The applicant has submitted a confidential analysis of the economic feasibility of this alternative. That analysis has been reviewed and accepted by the City's Economic Development Department. The economic feasibility analysis is herein incorporated by reference and is on file with the City of San Diego.

PRESERVATION OF NORTHERN POOLS ALTERNATIVE. Under this alternative, vernal pools would be preserved in the northern portion of the site, leaving the southern portion of the site for development. Approximately 15 vernal pools occur in the northern portion of the project site. This alternative would preserve about 9.88 acres as undisturbed open space and would develop about 56 acres with

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commercial and multiple-family residential uses. Development areas would be contiguous, but the area devoted to commercial uses would be reduced. Additionally, visibility to potential retailers from Mira Mesa Boulevard would be limited. Access drives from Mira Mesa Boulevard would be precluded, dramatically affecting the economic viability of the center. Westview Parkway (MarketCenter Drive) would be constructed as a four-lane collector through the site, as anticipated by the proposed project, and would connect with Hillery Drive in the same manner as the proposed project.


Under this alternative, approximately 300,000 square feet of commercial uses would be developed on 38.3 acres. Residential development would occur as proposed by the project, locating 422 multiple-family units on 17.7 acres. Area could be made available for MTDB to develop a park and ride facility. Commercial uses would be accessed solely from Westview Parkway (MarketCenter Drive), as no driveways would occur along Mira Mesa Boulevard. Hillery Drive would be extended to serve the multiple-family development. Uses would be linked with pedestrian elements, similar to the proposed project.

Finding. The *Preservation of Northern Pools* alternative would result in reductions in the loss of vernal pool habitat, traffic, impacts to air quality and solid waste generation. Vernal pools remaining on the site would be isolated and preserved in an area surrounded by urban development. This alternative could result in the integration of pedestrian connections and urban design linkages similar to the proposed project. Additionally, this alternative could accommodate MTDB's plans to connect by a pedestrian promenade the bus transfer facility to the project. This alternative has the potential to result in a reduction of anticipated transit use due to a reduction in commercial development. Other environmental issues associated with this alternative would be similar to the analysis of those issue areas for the proposed project.

The project objectives under this alternative would not be met because the intensity of commercial uses would not be sufficient to allow development of a regional center. The reduced commercial development would not support the level of improvements to the community circulation network required of the project. Therefore, this alternative has been rejected as infeasible. The applicant has submitted an analysis of the economic feasibility of this alternative. That analysis has been reviewed and accepted by the City's Economic Development Department. The economic feasibility analysis is herein incorporated by reference and is on file with the City of San Diego.

f. **Alternative Sites**

CEQA does not always require analysis of alternative sites. In making the decision to include or exclude analysis of an alternative site, the lead agency must consider whether or not development at an alternative site is 1) feasible, 2) furthers project objectives, 3) reduces significant environmental impacts over that of the proposed project, 4) conflicts with previous planning decisions, or 5) is speculative and uncertain. An alternatives sites analysis has been prepared in accordance with

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CEQA Guidelines Section 15126(d) to determine if there are alternative locations for the *Mira Mesa MarketCenter* project. The proposed project consists of a mixed-use retail center/residential project on a vacant 65-acre site in the San Diego Mira Mesa community. The project site is located adjacent to a planned bus transfer facility. The community and City are in support of a mixed-use project for the site because of the site's relationship with transit, as well as the adjacent Miramar Community College.

Finding. The *Mira Mesa MarketCenter* project is appropriate for the Kaiser property because of the property's size, accessibility, location, the surrounding population base and distance from retail commercial centers of a similar size and tenant mix. These selection parameters are all equally important in determining the acceptability of a site for commercial development and the success of the commercial center.

As a result of the alternatives sites analysis, the Kaiser site meets the parameters of the site selection criteria and is the preferred location for the *Mira Mesa MarketCenter* project. Furthermore, Kaiser does not own any other property suitable for development as a retail commercial center that meets the criteria set for the in Section 9.7 of the Final EIR.

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STATEMENT OF  
OVERRIDING CONSIDERATIONS

LDR No. 96-7371

SCH No. 97051044

The California Environmental Quality Act (CEQA) and CEQA Guidelines require the decision maker "to balance the benefits of the proposed project against its unavoidable environmental risks in determining whether to approve the project. If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered acceptable" [CEQA Guidelines § 15093(a)]. Based upon the analysis contained in the Environmental Impact Report (EIR) prepared for the project, implementation of the *Mira Mesa MarketCenter* project would result in cumulative impacts to biological resources, direct and cumulative traffic circulation and cumulative air quality, which have not been mitigated to below a level of significance. The project would contribute an incremental amount to cumulative impacts. These cumulative impacts cannot be mitigated by a single project. Mitigation for these impacts rely on regional plans directed at minimizing impacts.

The decision maker in approving the various discretionary actions that are the subject of the Final EIR for *Mira Mesa MarketCenter* having considered the information contained in the Final EIR, having reviewed and considered the public testimony and record, finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment. Specifically, the decision maker makes the following findings in support of the project despite the project's contribution to cumulatively significant impacts and direct traffic impacts.

- **Contributions to the Degradation of Regional Air Quality.** The project will contribute an increment to the degradation of regional air quality associated with automobiles of residents of and visitors to the project. Although the increment would be small, it would nonetheless add to the region's ability to attain air quality standards. The project's incremental contribution is found to be acceptable, because of the County's on-going commitments to improving air quality through the Regional Air Quality Strategy (RAQS). The project is in accordance with many tactics in the RAQS, including locating development proximate to an easily accessible circulation network which reduces trips to out-lying areas. Additionally, trip reduction measures are available to projects in the area which can help reduce cumulative impacts. Trip reduction measures include use of park-and-ride facilities and mobility options, such as car pooling, transit and bicycles. An existing park-and-ride facility is located at I-15 and Westview Parkway. A non exclusive park-and-ride facility would be provided on the project under a shared use arrangement with MTDB.

The MTDB has plans to establish a transit center at Hillery Drive and the I-15 to serve existing bus routes and to provide major community access and transfer. The transit center would also have a non exclusive park-and-ride facility. This improvement is projected to be implemented in 1999. In addition, work is under way to develop a long-range plan to accommodate either high-speed buses or light rail transit. This plan includes several measures that are being considered, such as creating a link between the high-occupancy vehicle (HOV) lanes of the I-15 and Hillery Drive and creating a link between the I-5 and I-15. A report that considers these plans, entitled "I-15 Corridor Major Investment Study," is expected to be completed in 1999.

Bike lanes and an extensive pedestrian system are planned as part of the project. These facilities would connect with bike routes and pedestrian access available in adjacent areas. These non-motorized transportation facilities would provide an alternative to automobile travel, as well as recreational opportunities. A pedestrian plaza would be constructed to create a pedestrian-oriented design and to provide focal points of activity. Located in the commercial center, proximate to the residential area, the plaza would provide an activity node and enhance the pedestrian walkway proposed through the commercial center and linkages to the public pedestrian promenade adjacent to the residential development.

- **Contributions to Direct and Cumulatively Significant Traffic Impacts.** The proposed project would not substantially increase area traffic above that which is assumed in the community plan. The project would contribute to congestion on the I-15 freeway and would result in significant unmitigated direct and cumulative impacts associated with circulation links and intersections in the community.


The project would implement measures to mitigate its impacts to the circulation network, although not to below a level of significance. Additionally, other future planned improvements, including completion of SR 56 and ultimate improvements to Black Mountain Road, would alleviate future congestion in the project area. Measures which would mitigate to below a level of significance impacts to the Mira Mesa Boulevard and Black Mountain Road intersection are not feasible due to existing development and right-of-way constraints. There are no measures at the project level which would eliminate direct and cumulatively significant regional impacts associated with traffic volumes on I-15.

- **Cumulative Loss of Wetland Habitat.** The proposed project would result in the incremental loss of regionally declining vernal pool and wetland habitats. The proposed project would result in the loss of approximately 0.20 acre of low and moderate quality vernal pools and 0.02 acre of disturbed wetland vegetation, resulting in significant direct and cumulative impacts to biological resources. The project would mitigate its direct impacts, as well as its incremental contribution to the cumulative loss of wetlands, through the off-site acquisition and creation of vernal pool habitat.

The City of San Diego's Biology Guidelines recognize that wetlands are protected by federal and state regulations and that impacts to wetlands should be avoided to the maximum extent practicable. The City has adopted a "no net loss" policy relative to wetlands habitats. Where unavoidable impacts would occur as part of a project, the City requires mitigation which would ensure the replacement of wetland habitat to achieve no net loss. The project would mitigate impacts to on-site wetlands through the off-site acquisition at a minimum ratio of 1:1 and creation and enhancement of wetland habitat at a minimum ratio of 1:1, resulting in an overall minimum mitigation ratio of 2:1. This would ensure adherence to the City's policy of no net loss. However, cumulatively significant impacts associated with the loss of wetlands on a regional level would remain significant and unmitigated.

Additionally, the decision maker finds that the project results in beneficial effects which outweigh its contribution to cumulative impacts. Specifically, the following overriding considerations are made:

1. *Mira Mesa MarketCenter* has been designed in response to comments from the community and the City, as well as sound marketing and economic principles. As a result, the project fulfills a community need for the development of a state-of-the-art retail center

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## MITIGATION MONITORING AND REPORTING PROGRAM

General Plan/Community Plan Amendment, Vesting Tentative Map, Planned Commercial Development Permit, Planned Residential Development Permit, Resource Protection Ordinance Permit and Conditional Use Permit

LDR NO.96-7371

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Land Development Review Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Environmental Impact Report (LDR No. 96-7371) shall be made conditions of General Plan/Community Plan Amendment, Vesting Tentative Map, Planned Commercial Development Permit, Planned Residential Development Permit, Resource Protection Ordinance Permit and Conditional Use Permit as may be further described below.

The above mitigation monitoring and reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.

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# MIRA MESA MARKET CENTER

## Mitigation Monitoring and Reporting Program

LDR No. 96-7371  
SCH No. 97051044

Draft: May 1, 1998  
Final: June 25, 1998

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# INTRODUCTION

This Mitigation Monitoring and Reporting Program has been prepared for the *Mira Mesa MarketCenter* project (LDR No. 96-7371; SCH No. 97051044) to comply with the mitigation monitoring statute (*Public Resources Code*, § 21081.6) which requires public agencies to adopt such programs to ensure effective implementation of the mitigation measures. This program shall be a requirement of the discretionary actions associated with the *Mira Mesa MarketCenter* project.

The following text includes a summary of the potentially significant project impacts, a list of mitigation measures identified in the environmental impact report, and the monitoring efforts necessary to ensure that the mitigation measures are properly implemented. Mitigation measures, monitoring and reporting requirements shall be as defined in the environmental impact report (LDR No. 96-7371; SCH No. 97051044) and may require further detail prior to construction and/or following project implementation.

## 1.0 Biological Resources

### 1.1 SIGNIFICANCE OF IMPACTS

The loss of approximately 0.20 acre of vernal pool habitat, approximately 7.92 acres of Deign coastal sage scrub and approximately 1.35 acres of chamois chaparral/ Deign coastal sage scrub is considered to be a significant direct and cumulative impact of the project. Additionally, the loss of 0.02 acre of wetland is considered to be significant on a regional level. The loss of 8,575 individual specimens of San Diego Golden Star; and the presence of San Diego fairy shrimp are considered to be a significant impact to sensitive plant and animal species. Impacts to 42.75 acres of chaparral habitat and 7.94 acres of non-native grassland are not regarded as significant but would require mitigation under MSCP.

### 1.2 MITIGATION MEASURES, MONITORING AND REPORTING PROGRAM

The following shall be included as conditions of approval of the Vesting Tentative Map:

#### Mitigation Ratios:

Impacts to sensitive vegetation communities and plant species shall be in accordance with the City Biological Guidelines, adopted in November 1997 in conjunction with the City's Land Development/Zoning Code Update. According to the City's Land Development/Zoning Code Update Biological Guidelines (revised September 1997), the project would require the following mitigation:

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Habitat Type	Mitigation Ratio	Mitigation Amount
Vernal pool	2:1 to 4:1	0.40 acre
Disturbed wetland	2:1	0.04 acre
Deign coastal sage scrub	1:1	7.92 acres
Chamois chaparral/ Deign Coastal Sage Scrub	1:1	1.35 acres
Chaparral/Disturbed Mixed Chaparral	0.5:1	21.38 acres
Non-native Grassland	0.5:1	3.97 acres
<b>TOTAL</b>		<b>35.06 acres</b>

In order to mitigate impacts to vernal pools, a small area of disturbed wetlands, Deign coastal sage scrub and chaparral habitats, the developer has agreed to the following mitigation program:

1. Prior to the issuance of any grading permit and/or recordation of the first Final Map, the applicant shall place a conservation easement on Mesa Norte, a five acre site in Mira Mesa. The site shall be acquired by the developer and placed in open space to be preserved in perpetuity as a vernal pool mitigation site. The site currently supports 23 vernal pools (7,710 square feet). In addition, a minimum of 8,800 square feet of vernal pool habitat shall be restored in the Mesa Norte site.

Additionally, the developer shall implement a final Biological Restoration Plan that has been approved by the City, USFWS and ACOE prior to the issuance of grading permits for the project. The Biological Restoration Plan shall include the following:

- a. Grading of the restoration area shall be conducted under the direction of a qualified biologist with vernal pool restoration experience. The grading contractor and operators shall be experienced in vernal pool restoration work. The restoration team shall include a qualified surveyor to assure that the restored site implements the grading plan as designed.
- b. A maintenance and monitoring program shall include monitoring of the restoration site for a period of five years. The monitoring program for the restored vernal pools will consist of hydrological measurements, complete floral and fauna inventories, quantitative vegetation transects and photo documentation.
- c. If an annual performance criterion is not met for all or a portion of the mitigation project in any year, or if the final success criteria are not met, the permittee shall prepare an analysis of the cause(s) of failure and, if determined necessary by the City, ACOE and USFWS, propose remedial actions for approval. If the mitigation site has not met the performance criterion, the responsible party's maintenance and monitoring obligations shall continue until the City, ACOE and USFWS give final project confirmation.
- d. At the end of five years, the applicant shall meet with the City to determine the continued long-term maintenance of the Mesa Norte site. At the discretion of the City Manager, long-term maintenance may continue to be the responsibility of the applicant or the responsibility may be taken over by the City.

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2. Prior to the issuance of any grading permit and/or recordation of the first Final Map, the applicant shall either dedicate in fee title to the City of San Diego or place a conservation easement on the Gleitch parcel, located on Del Mar Mesa. The site shall be acquired and as open space preserved in perpetuity as mitigation for both upland habitats and vernal pools. The site currently supports 19.93 acres of chaparral that can be used toward mitigation for chaparral and non-native grassland. The 8,900 square feet of vernal pool basin shall be used in conjunction with the Mesa Norte site as mitigation for vernal impacts to vernal pools. Additionally, the project proponent shall provide \$2,000.00 for the replacement of a gate to preclude unauthorized access to Del Mar Mesa.
3. Prior to the issuance of any grading permit and/or recordation of the first Final Map, the applicant shall either dedicate in fee title to the City of San Diego or place a conservation easement on the Konyn property in the San Pasqual Valley. The site shall be acquired by the project proponent and preserved as open space in perpetuity to offset the remaining 14.7 acres of upland mitigation requirements.
4. The project proponent shall provide City, ACOE and USFWS with copies of the easement language and a management plan for each of the mitigation sites for approval by the agencies.

Mitigation for project impacts the entire acreage of the Mesa Norte site and the Gleitch parcel. No habitat credits remain on these sites for mitigation banking.

5. Prior to issuance of a grading permit, off-site acquisition and preservation of the above sites must be accomplished. The applicant shall provide the City Manager with proof of acquisition and preservation of the off-site mitigation area prior to issuance of a grading permit.
6. Prior to approval of the issuance of any grading permits and/or recordation of the first Final Map, proof of the 404 permit shall be submitted to the City Manager.

## 2.0 Transportation/Circulation

### 2.1 SIGNIFICANCE OF IMPACTS

The *Mira Mesa MarketCenter* project will result in direct and cumulative impacts to the circulation system.

### 2.2 MITIGATION, MONITORING, AND REPORTING PROGRAM

The project ~~will~~ shall be required to pay Mira Mesa Facilities Benefit Area (FBA) and participate in various transportation improvements identified in the Eight Owners Agreement for the area which determined each property owners' share of the various off-site public facilities not covered by the FBA fees. Prior to issuance of building permits,

the applicant shall provide the following transportation improvements required by. The projects covered by the Eight Owners Agreement are satisfactory to the City Engineer:

1. Provide 74 percent of the cost of widening Black Mountain Road to a 6-lane primary arterial between Hillery Drive and Gold Coast Drive.
2. Construct the fourth eastbound lane of Mira Mesa Boulevard adjacent to the property, with east-west interconnected signal system between Black Mountain Road and Interstate 15.
3. Construct the extension of Westview Parkway (Maya Linda Road) from Mira Mesa Boulevard south to Hillery Drive as a 4-lane major street. Contribute 50 percent toward signalization at Mira Mesa Boulevard/Westview Parkway. The applicant is proposing to construct a modified 4-lane collector.
4. Construct Hillery Drive as a 4-lane street between Black Mountain Road and Westview Parkway. The applicant will construct a 4-lane collector adjacent to the project and a 2-lane modified collector with a center turn lane between the project's westerly boundary and Black Mountain Road.
5. Participate in cost reimbursement districts for the widening of Black Mountain Road from Samoa Avenue/Westview Parkway to north of the Black Mountain Road bridge over Penasquitos Creek at 43 percent.
6. Construct a pedestrian overcrossing of Mira Mesa Boulevard at Westview Parkway (Maya Linda) 50 percent of the cost. The City has Engineer waived this requirement.
7. Participate in the cost of installation of a traffic signal at Black Mountain Road and Hillery Drive (50 percent of the cost).
8. Install a traffic signal at Hillery Drive/Westview Parkway (100 percent of cost).

In addition to the projects listed in the Eight Owners Agreement, the following mitigation measures ~~are recommended~~ are required to mitigate the project's traffic impacts. The applicant shall provide these improvements to the satisfaction of the City Engineer:

9. To enhance operating characteristics on Mira Mesa Boulevard parking along the southside of Mira Mesa Boulevard from Black Mountain Road to I-15 should be restricted.
10. The addition of cumulative project traffic creates the need for a fifth eastbound through travel lane at the intersection of Westview/Mira Mesa. This improvement can be accommodated in the curb lane along the project frontage. The proposed lane also accommodates direct driveway access for the project to Mira Mesa Boulevard. This lane should extend to I-15 and become an additional lane to the ramp entrance for southbound I-15.

11. Construct Westview Parkway from Mira Mesa Boulevard to Hillary Drive to a modified four lane collector roadway standards to the satisfaction of the City Engineer per the channelization plan on file with the City of San Diego. This improvement is included in the Eight Owners Agreement conditions listed above.
12. Modify the traffic signal at Mira Mesa Boulevard/Westview Parkway to accommodate Westview Parkway extension, Mira Mesa Boulevard widening and dual westbound left turn lanes. The configuration should consist of: Eastbound (2 lefts, 5 throughs), westbound (2 lefts, 4 throughs, 1 right), north/southbound (2 lefts, 2 throughs, 1 right). This improvement is included in the Eight Owners Agreement conditions listed above.
13. Install a traffic signal at Westview Parkway/Project Access, to include appropriate lane geometrics as discussed ~~in this report~~ in the traffic study and the Channelization Plan. The northbound approach requires only one left turn lane based on worst case turn volume of 70 vehicles. The eastbound project access requires dual left turn lanes based on traffic volumes.
14. Install a traffic signal at Hillery Drive/Westview Parkway to the satisfaction of the City Engineer. This improvement is included in the Eight Owners Agreement conditions listed above.
15. Construct Hillery Drive to two lane collector standards with a continuous left turn lane from Westview Parkway to the project's western boundary. From the western boundary to Black Mountain Road, construct Hillery Drive to modified four lane collector standards (54') within existing rights of way to the satisfaction of the City Engineer. This improvement is included in the Eight Owners Agreement conditions listed above.
16. Restripe the east/west approaches at Hillery Drive/Black Mountain Road to provide left and through/right lanes at the Hillery Drive approaches to this intersection to the satisfaction of the City Engineer.
17. Modify traffic signal at Hillery Drive/Black Mountain Road to allow left turn phasing.
18. Provide turnaround provisions at the north and south ends of the driveways within the eastern residential portion of the project.
19. Design the Hillery Drive cul-de-sac to satisfaction of the City Engineer.
20. Provide emergency access between the commercial and residential portions of the project to the satisfaction of the City Engineer and the Fire Department.
21. Provide emergency access to the eastern residential site through the terminus of Maya Linda Drive.

The following projects are required to mitigate traffic impacts. The applicant ~~proposes to provide a fair share contribution for these improvements to the satisfaction of the City~~

Engineer shall provide a fair share contribution for these improvements to the satisfaction of the City Engineer. Prior to issuance of a building permit, the applicant shall provide the following fair share contributions:

22. Improvements to the Mira Mesa Boulevard/Black Mountain Road intersection to include northbound right turn lane. At this time the construction of these improvements is not feasible due to the right-of-way constraints.
23. Improvements of Black Mountain Road to add a third north/south through lanes. The adopted community plan identifies these improvements but restricts their consideration until SR-56 is constructed. At that time the need for the improvements will be evaluated. At this time the construction of these improvements is not feasible due to the right-of-way constraints.
24. Improvement of Mira Mesa Boulevard to add a fourth eastbound through lane from Black Mountain Road to project's westerly boundary. The feasibility of this project been investigated and determined to not be feasible due to right-of-way and existing development constraints.

## 3.0 Air Quality

### 3.1 *SIGNIFICANCE OF IMPACTS*

Temporary impacts associated with construction activities will result in direct air quality impacts.

### 3.2 *MITIGATION, MONITORING, AND REPORTING PROGRAM*

The following standard City requirements will be applied which will avoid significant construction-related impacts:

- Water all active disturbance sites at least twice daily.
- Suspend demolition, excavation and travel on unpaved surfaces when winds exceed a 25 miles per hour average hourly speed.
- Cover/tarp all trucks hauling dirt or debris to or from any construction site.
- Routinely water any dirt stockpiles or apply chemical soil stabilizers.
- Apply stabilizers or plant ground cover on any graded areas expected to remain inactive for more than one week.
- Install wheel washers for vehicles leaving any unpaved surfaces and entering public streets.

- Sweep streets daily near site access points if any visible signs of tracked-out dirt are evident.
- Limit equipment/truck idling to no more than five minutes before the engine must be turned off.
- Minimize lane closures, detours, etc. during peak traffic hours to minimize interference with non-project traffic.
- Schedule receipt of building materials from 10 AM to 3 PM where possible.

## 4.0 Noise

### 4.1 *SIGNIFICANCE OF IMPACTS*

Portions of the project site could be exposed to noise levels in excess of the City noise standards. On-site and adjacent off-site residential uses could also be exposed to nuisance noise levels from commercial retail activities.

### 4.2 *MITIGATION, MONITORING, AND REPORTING PROGRAM*

The following measures shall be incorporated as measures as indicated below. Prior to the issuance of the grading permit and as a condition of the Vesting Tentative Map, the City Engineer shall ensure the following noise mitigation measure is noted on the grading permit:

- All construction and general maintenance activities, except in an emergency, shall be limited to the hours of 7:00 AM to 7:00 PM. Monday through Saturday and should utilize the quietest equipment available. All on-site construction equipment should have properly operating mufflers and all construction staging areas should be as far away as practical from adjacent residential areas to minimize possible intrusion.

Prior to the issuance of building permits, the Acoustical Plan Review Section shall review and approve the plan/studies to ensure the following conditions are implemented:

- Any usable exterior recreational space close to I-15 shall not be counted toward meeting usable open space requirements unless attenuated to 65 dB CNEL or less.
- An acoustical study confirming the ability of proposed residential structural features to meet the 45 dB interior noise standard shall be submitted when building plans are filed. The Acoustical Plan Review Section shall approve the plans prior to the issuance of building permits.



- Commercial/residential interfaces, both at existing adjacent off-site residences and at proposed on-site residential development, shall be protected from noise nuisance through:
  - a. Suitable barriers (such as block walls with pilasters, earthen berms, or fences) that are a minimum of six feet in height. All barriers that are visible from residential areas should be attractive and compatible with the architectural design of the commercial center.
  - b. Use permit restrictions for commercial retail activities on allowable timing (7:00 AM to 10:00 PM) for good deliveries, maintenance, etc.
  - c. Mechanical equipment (heating, ventilation, air conditioning) shall comply with City of San Diego standards on allowable noise exposure to the closest residential uses.
- An acoustical study shall be prepared to determine that exterior noise levels for required useable recreation areas are located outside of the 65 dB CNEL noise level or have been attenuated to 65 dB CNEL or less per City standards.
- If either the exterior or interior noise analyses determine that the preferred method of attenuating noise levels include the use of berm(s), wall(s) or berm/wall combination(s), then such physical noise attenuating features shall be limited to the southern panhandle portion of the site and shall not exceed 12 feet in height. Landscaping shall be installed on the exterior and interior side of the berm, wall or berm/wall combination sufficient to screen views and soften the appearance of the noise attenuation. Additionally, any wall construction shall be aesthetic in appearance on all sides and shall reflect the architectural style of the residential development proposed for the site.

## 5.0 Hydrology/Water Quality

### 5.1 SIGNIFICANCE OF IMPACTS

The *Mira Mesa MarketCenter* project will add an incremental amount of urban pollutants entering Los Peñasquitos Lagoon. The project will be required to adhere to local and regional requirements relative to the stormwater discharge. Adherence to these requirements will reduce direct and cumulative impacts to below a significant level.

### 5.2 MITIGATION, MONITORING, AND REPORTING PROGRAM

Municipalities in the San Diego region, including the City of San Diego, must comply with the California Regional Water Quality Control Board's (RWQCB) Order 90-42 and U.S. Environmental Protection Agency Permit No. CA0108758, which consists of

waste discharge requirements for stormwater and urban runoff. In compliance therewith, the City has developed a Best Management Practices (BMP) Manual for stormwater and urban runoff pollution control, detailing control and prevention measures to be implemented on a City-wide basis. Implementation of appropriate BMPs will mitigate the project's contribution to the cumulative water quality impacts.

Prior to the issuance of any grading permits, the following measures shall be incorporated as conditions of the VTM, PCD and PRD:

- Specific BMPs shall be shown on final engineering plans as required by the City Manager. The requirement to implement BMPs shall be made a condition of approval of the *Mira Mesa MarketCenter*. Prior to issuance of the grading permit, a State NPDES permit shall be obtained and submitted to the ~~Principal Planner City Engineer of the Development Services Department~~. Monitoring shall be the responsibility of the ~~City Engineer~~ and the RWQCB. An additional measure shall include stenciling of storm drains indicating that materials placed in the storm drains discharge to a sensitive coastal lagoon as a form of public education.

The City Manager shall review the grading plans to ensure that the notes have been provided.

~~Implementation of project specific measures will reduce the direct impact to below a significant level. Although cumulative water quality impacts could occur over the near term, implementation of the City's BMP for Stormwater Pollution Control will mitigate the cumulative impact over the long term.~~

## 6.0 Schools

### 6.1 *SIGNIFICANCE OF IMPACTS*

It is anticipated that there may not be adequate capacity in area schools to serve the proposed project at buildout. Therefore, project specific impacts are considered significant.

### 6.2 *MITIGATION, MONITORING, AND REPORTING PROGRAM*

The following measures shall be incorporated as conditions of the VTM, PCD and PRD:

- The project will be required to pay school fees in accordance with State laws. Prior to recordation of each building permit, the developer shall demonstrate that appropriate school payments have been made to the San Diego Unified School District (SDUSD). Payment of these school fees will reduce the project's impacts to schools to below a level of significance.

# 7.0 Paleontological Resources

## 7.1 SIGNIFICANCE OF IMPACTS

Development of the proposed project could have a significant impact on paleontological resources.

## 7.2 MITIGATION, MONITORING, AND REPORTING PROGRAM

As a condition of the Vesting Tentative Map, the following measures shall be implemented to mitigate impacts to paleontological resources:

- a. Prior to issuance of a grading permit, the applicant shall provide a letter of verification to the Environmental Review Manager of Land Development Review (LDR) stating that a qualified paleontologist and/or paleontological monitor has been retained to implement the monitoring program. The requirements for paleontological monitoring has to be noted on the grading plans. All persons involved in the paleontological monitoring of the project shall be approved by the Environmental Review Manager prior to the preconstruction construction.
- b. The qualified paleontologist shall attend any preconstruction meetings to discuss grading plans with the grading and excavation contractor.
- c. The paleontologist or paleontological monitor shall be onsite to inspect for fossils *during excavation into previously undisturbed formations*. Monitoring shall be done full-time in those formations with a high sensitivity rating, and shall be half-time in those formations with a moderate sensitivity rating. The monitoring time may be increased or decreased at the discretion of the paleontologist in consultation with the Environmental Analysis Section (EAS). Monitoring shall occur only when excavation activities affect the geologic formation.
- d. In the event that fossils are encountered, the paleontologist shall have the authority to divert or temporarily halt construction activities in the area of discovery to allow recovery of fossil remains in a timely fashion. The paleontologist shall immediately notify LDR of such finding at the time of discovery. LDR staff shall approve salvaging procedures to be performed before construction activities are allowed to resume. Because of the potential for recovery of small fossil remains, it may be necessary to set up a screen-washing operation onsite.
- e. Fossil remains shall be cleaned, sorted, repaired, catalogued, and then (with the permission of the owner of the property where the remains were collected) stored in a local scientific institution that houses paleontological collections.

f. The qualified paleontologist shall be responsible for preparation of fossils to a point of identification, and submittal of a letter of acceptance from a local qualified curation facility. A qualified curation facility is defined as a research institution with a permanent commitment to long-term care of paleontological collections and employing professional curatorial staff. If the fossil collection is not accepted by a local qualified facility for reasons other than inadequate preparation of specimens, the project paleontologist shall contact EAS to suggest an alternative disposition of the collection.

g. Prior to the issuance of certification of occupancy, a monitoring results report with appropriate graphics summarizing the results (even if negative), analyses, and conclusions of the above program shall be prepared and submitted to EAS for approval. Any discovered fossil sites shall be recorded at the San Diego Natural History Museum.

Prior to the issuance of building permits, the monitoring results shall be submitted to and approved by the City of San Diego's Development Services Center.