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9/17/07

(R-2007-1310 REV.)

RESOLUTION NUMBER R- 302996

DATE OF FINAL PASSAGE SEP 17 2007

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR PROJECT NO. 6563, MAKING CERTAIN FINDINGS AND DETERMINATIONS REGARDING THE ENVIRONMENTAL IMPACTS OF PROJECT NO. 6563, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE PROJECT, AND DIRECTING CITY STAFF TO ADD AN ERRATA TO THE FINAL EIR AND WATER SUPPLY ASSESSMENT

WHEREAS, on April 11, 2003, Costa Verde Hotel, LLC, submitted an application to the City of San Diego for amendments to the Progress Guide and General Plan, the University Community Plan, and the Costa Verde Specific Plan, an easement vacation, a public right-of-way vacation, a vesting tentative map, a planned development permit, a site development permit, and a right-of-way permit [collectively, the Project Documents] for the Monte Verde Project No. 6563 [Project]; and

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

WHEREAS, the issue was heard by the City Council on September 17, 2007; and

WHEREAS, the City Council of the City of San Diego considered the issues discussed in Environmental Impact report No. 6563, SCH No. 2003091106; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter required the City Council to act as a quasi-judicial body in that a public hearing was required by law implicating due process rights of individuals affected by the decision and the City Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, as follows:

1. That the City Council hereby certifies that the Final Environmental Impact Report [FEIR] for the Project has been prepared and completed in compliance with the California Environmental Quality Act [CEQA] and the adopted state and local guidelines and regulations.
2. That the City Council hereby further certifies that the information contained in the FEIR has been reviewed and considered by the members of the City Council in connection with the approval of the Project Documents, that each and all of the findings and determinations contained in this Resolution (including the Candidate Findings and Statement of Overriding Considerations, a copy of which is attached hereto, adopted by the City Council and incorporated herein by this reference as Exhibit A) are based on substantial evidence in the record (including information contained in the FEIR, together with any comments received during the public review process), and that such findings and determinations reflect the independent judgment and analysis of the City Council.
3. That the City Council finds and determines that:
 - a. The Project will not result in significant effects on the environment with respect to those issues identified in the FEIR and Section III (but not Section IV or Section V) of Exhibit A.
 - b. There are significant effects on the environment which are identified in the FEIR which are not and cannot feasibly be avoided or substantially lessened as noted in Section V of Exhibit A.
 - c. Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment that would occur if the Project is approved and carried out, as identified in the FEIR and described in Section IV of Exhibit A.

- d. There are no changes or alterations which would mitigate or avoid the significant effects on the environment that would occur if the Project is approved and carried out that are within the responsibility and jurisdiction of another public agency other than the City Council and have been, or can and should be, adopted by an agency other than the City Council.
- e. With respect to significant effects on the environment that would occur if the Project is approved or carried out and which cannot be mitigated or avoided, the specific economic, legal, social, technological, 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 FEIR, as described in Section V of Exhibit A.
- f. Pursuant to California Public Resources Code Sections 21081(b) and CEQA Guidelines 15093, the City Council has balanced, as applicable, the economic, legal, social, technological, or other benefits of the Project against its unavoidable environmental risks in approving this Project, as described in Sections V and VI of Exhibit A.
- g. The specific overriding economic, legal, social technological, or other benefits of the Project outweigh and make acceptable the significant effects on the environment that would occur if the Project is approved or carried out and which cannot be mitigated or avoided, as described in Section VI of Exhibit A, and for this reason the City Council hereby adopts Section VI as the Statement of Overriding Considerations for the Project.

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4. That the Mitigation Monitoring and Reporting Program for the Project, on file in the office of the City Clerk as Document No. RR-_____, is hereby approved and adopted to monitor and ensure that the mitigation measures identified will be instituted.

5. That City staff is directed to add an errata sheet to the FEIR stating that the City Council has considered the issues raised by the City Attorney with respect to the *NRDC v. Kempthorne* (Case No. 05-CV-1207) federal court ruling and that the City Council determined that the water supply is adequate for the Project based upon the information received.

6. That City staff is directed to add an errata sheet to the Water Supply Assessment Report stating that the City Council has considered the issues raised by the City Attorney with respect to the *NRDC v. Kempthorne* (Case No. 05-CV-1207) federal court ruling and that the City Council determined that the water supply is adequate for the Project based upon the information received.

7. That the City Clerk or designee is hereby authorized and directed to cause the filing of a Notice of Determination [NOD] with respect to the FEIR with the Clerk of the Recorder's Office of the County of San Diego.

APPROVED:

By 
Mike Westlake
Program Manager

Reviewed by Tim Daly
Or.Dept:DSD
R-2007-1310
MMS#5046

APPROVED AS TO FORM:

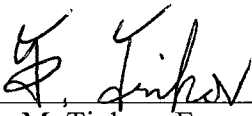
By: 
Felix M. Tinkov, Esq.
LOUNSBERY FERGUSON ALTONA & PEAK, LLP
Special Counsel to the City of San Diego

EXHIBIT A

CANDIDATE FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS REGARDING THE ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED 560-UNIT MONTE VERDE PROJECT

I. INTRODUCTION

The following Findings and Statement of Overriding Considerations are made for the Monte Verde development (hereinafter referred to as the "PROJECT"). The environmental effects of the PROJECT are addressed in an Final EIR (Project No. 6563 /SCH No. 2003091106), dated August 14, 2006, which is incorporated by reference herein. As stated in the Additional Information Statement (AIS) to the Final EIR, dated May 16, 2007, the impacts associated with the construction of the 560 units associated with the PROJECT, would be no greater than those associated with the 800-unit development addressed in the original Final EIR. The California Environmental Quality Act (CEQA) (California Public Resources Code §§21000 et. seq. and the State CEQA Guidelines (Title 14, California Code of Regulations, §§15000 et. seq.) require that no public agency shall approve or carry out a project which identifies one or more significant environmental effects of a 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 for each finding. The possible findings are:

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

(CEQA, §21081(a); Guidelines, §15091(a).)

CEQA and the Guidelines further require 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. (Guidelines, §15093(b).)

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 Development Services Department, Environmental Analysis Section, 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 potential reasons for approving the PROJECT despite the significant unmitigated effects identified in the Final EIR.

II. PROJECT DESCRIPTION AND PURPOSE

The 4.77-acre project site is located in the North University City area of the City of San Diego at the southwest corner of La Jolla Village Drive and Genesee Avenue. The multi-family residential Towers at Costa Verde are located adjacent to the project site to the southwest. The regional shopping mall known as Westfield University Towne Centre (UTC) is located to the east of the project across Genesee Avenue. The proposed site is currently undeveloped but does contain a graded pad paved with asphalt which is used as a retail parking lot as well as for construction trailers and construction equipment storage.

The PROJECT would include four high-rise residential buildings with a combined 560 residential units, associated recreation amenities and 1,312 parking spaces which would be located in subterranean parking structures. A pedestrian bridge over La Jolla Village Drive would be built as part of the PROJECT and the existing pedestrian bridge over Genesee Avenue would be modified and enhanced. In addition, an existing sewer line would be upsized between the project site and Rose Canyon to the south. The upsizing would occur within the paved portion of Genesee Avenue as well as vacant land to meet with the Rose Canyon sewer line just south of the railroad tracks within Rose Canyon.

Grading would be required for the subterranean parking structures. Up to 470,000 cubic yards of material would be removed from the site.

Implementation of the PROJECT would require an amendment to the University Community Plan (UCP) primarily to change the land use designation from visitor commercial (hotel) to residential. Administrative changes to the UCP include revising text, tables and maps to reflect the correct land use designation of the property.

Other discretionary actions include an amendment to the Costa Verde Specific Plan, a Tentative Map, a Planned Development Permit (PDP), Planned Commercial Development Permit (PCD), a site development plan, and several easement vacations.

The primary goals of the PROJECT include:

- Provide a variety of multi-family residential types to serve students, military, seniors and professional and office workers within the UCP Plan area;
- Develop higher density residential within an "urban node" of the City of San Diego;
- Promote "smart growth" goals by locating high-density residential uses near commercial, office, educational and retail uses;
- Accommodate pedestrians traveling from the north side of La Jolla Village Drive to the Costa Verde and University Towne Center shopping centers by constructing a planned pedestrian bridge over La Jolla Village Drive pursuant to the Community Plan; and
- Respond to the region's housing shortage and predictions of rapid population growth in San Diego.

III. ISSUES ADDRESSED IN Final EIR

The Final EIR contains an environmental analysis of the potential impacts associated with implementing the PROJECT. The major issues that are addressed in this Final EIR were determined to be potentially significant based on review by the City of San Diego. These issues included land use, traffic and circulation, air quality, biological resources, noise, visual effects/neighborhood character, public facilities and services, paleontological resources, historical resources, hydrology, water quality, geology, energy conservation and light, glare and shading.

IV. FINDINGS REGARDING IMPACTS THAT CAN BE MITIGATED TO BELOW A LEVEL OF SIGNIFICANCE (PUBLIC RESOURCES CODE §21081(a)(1))

The City, having reviewed and considered the information contained in the Final EIR, including the AIS, finds pursuant to Public Resources Code §21081(a)(1) and Guidelines §15091(a)(1) that changes or alterations have been required in, or incorporated into, the PROJECT which would mitigate, avoid, or substantially lessen to below a level of significance the following potential significant environmental effects identified in the Final EIR: local traffic (direct and cumulative), noise (direct), public facilities and services (direct and cumulative), paleontological resources (direct), biological resources (direct), and historical resources (direct).

A. Local Traffic (Direct and Cumulative)

Potential Impacts: The project could have significant direct and cumulative impacts to the following intersections:

- La Jolla Village Drive/Genesee Avenue; and
- Esplanade Court/Private Drive A.

Facts in Support of Findings: The project's significant direct and cumulative impacts to intersections would be mitigated to below a level of significance with implementation of Mitigation Measure 5.2-1 identified in the Final EIR. Implementation of this mitigation would require the provision of intersection improvements including: (1) additional turn lanes for the intersections of La Jolla Village Drive/Regents Road, La Jolla Village Drive/Genesee Avenue, and Genesee Avenue/Esplanade Court and (2) a roundabout for Private Drive A/Esplanade Court.

B. Public Facilities and Services (Direct)

Potential Impacts: The PROJECT would result in significant impacts on the Miramar Landfill capacity.

Facts in Support of Findings: Implementation of the Mitigation Measures 5.4-1 through 5.4-6 would reduce direct impacts to below a level of significance by requiring exterior areas to store trash and recyclable and the preparation of a waste management plan. This would avoid any substantial increase in the demand for landfill related to the PROJECT.

C. Paleontological Resources (Direct)

Potential Impacts: Implementation of the PROJECT would have the potential for significant direct impacts to paleontological resources in areas proposed for grading that are underlain by fossil-bearing geologic formations.

Facts in Support of Findings: Potential direct impacts would be mitigated to below a level of significance by implementation of Mitigation Measure 5.5-1. Mitigation would require that a qualified paleontologist and/or paleontological monitor implement a paleontological monitoring program. The monitor would be present full-time onsite during grading/excavation/trenching activities, diverting or halting construction activity in the area of discovery if fossil remains are found to allow recovery and curation of fossils, recordation of fossils at the San Diego Natural History Museum, and documenting findings in a Monitoring Report.

D. Noise (Direct)

Potential Impacts: Traffic noise on adjacent roadways could exceed levels considered suitable for residential areas within the PROJECT. Portions of the outdoor recreational areas mandated by the Costa Verde Specific Plan could be exposed to levels in excess of 65dBA CNEL, which would represent a significant direct impact.

Facts in Support of Findings: Implementation of Mitigation Measure 5.6-1 would reduce the traffic noise impacts on recreation to below a level of significance. The measure requires construction of noise attenuation barriers. The location and design of these barriers would be determined by an acoustical study to achieve noise levels below 65 dB(A) CNEL within designated ground level recreation areas. The City would be required to confirm that the barriers are in place and that they are effective prior to issuance of any Certificate of Occupancies for buildings with recreation areas within unacceptable exterior noise levels for recreation areas.

E. Biological Resources (Direct)

Potential Impacts: Although development of the project site itself would have no impacts on biological resources or wetlands, construction of the off-site sewer line would result in impacts to biological resources. The degree of impact would depend on the construction alternative ultimately selected for the sewer line replacement.

The sewer replacement would impact the following upland habitat types:

- Diegan coastal sage scrub (Tier II): 0.011 acres, with 0.03 acres occurring within a previously restored area (sewer options 2A and 2B(1)), or 0.16 acre, with 0.03 acre occurring within a previously restored area (sewer option 2B(2)).
- Native grassland (Tier I): 0.01 acres for all sewer options.
- Non-native grassland (Tier IIIB): 0.30 acre (sewer options 2A and 2B(1)), or 0.33 acre (sewer option 2B(2)).

The off-site sewer construction would also result in impacts to the following wetland habitat types:

- Southern cottonwood-willow riparian forest wetland habitat: 0.009 acre for all sewer options (which would be reduced by 0.003 acre if the City constructs the permanent access across Rose Creek before the sewer line is constructed).
- Southern willow scrub: 0.003 acre (sewer options 2A and 2B(1)), or 0.13 acre (sewer option 2B(2)).
- Disturbed habitat/culvert: 0.001 acre for all sewer options.

Because the wetland habitat may provide nesting habitat for several raptor species, there could be a construction impact of precluding birds from nesting.

Project construction is expected to result in indirect impacts to wildlife, most notably from the effects of disturbance/clearing of native vegetation that could result in conditions suitable for non-native, weedy species intrusion and other detrimental edge effects. If construction occurs at night, lighting could impact sensitive species. Construction noise occurring during the breeding season could interfere with nesting and fledging.

Facts in Support of Findings: The significant direct impacts to biological resources associated with the PROJECT would be mitigated to below a level of significance with implementation of Mitigation Measures 5.7-1 through 5.7-11 identified in the final Final EIR.

In order to mitigate for direct impacts to sensitive habitats, the applicant would make a contribution to the City's Habitat Acquisition Fund to compensate for impacts to Tier I, II and IIIB upland habitat. The contribution would be based on a fee of \$25,000 per acre plus a 10 percent administrative fee. A qualified biologist would be retained to implement the biological resources mitigation program. All native vegetation and all wetland areas within the vicinity of construction must be fenced to protect it during construction. In addition, a final wetland revegetation plan must be approved. Wetland compensation would be accomplished at an overall ratio of 3:1 for southern cottonwood-willow riparian forest and 2:1 for southern willow scrub, as set forth in the Conceptual Wetland Revegetation and Monitoring Plan. The ratios may be achieved through a combination of creation and enhancement. However, at least 1:1 shall consist of creation.

No clearing, grubbing or grading of areas occupied by sensitive species would be allowed during their breeding season unless, under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) are implemented to ensure that noise levels resulting from construction activities would not exceed 60 dB(A) hourly average at the edge of habitat occupied by the coastal California gnatcatcher, southwestern willow flycatcher, or least Bell's vireo.

If construction for the offsite sewer improvement occurs during the raptor breeding season, a preconstruction survey would be conducted and no construction would occur within 300 feet of any identified nest(s) until the young fledge. Should the biologist determine that raptors are nesting, an appropriate noise buffer area would be established in coordination with appropriate City staff.

A monitoring results report with appropriate graphics summarizing the results, analysis and conclusion of the monitoring program would be submitted to the Development Services Department of the City of San Diego.

F. Historical Resources (Direct)

Potential Impacts: The PROJECT (specifically, construction of the improvement to the sewer line and related wetland revegetation) could significantly impact one previously recorded cultural resource (CA-SDI-12556). The final determination as to the impact of the relocation of the sewer on CA-SDI-12556 cannot be determined until final design has been determined and a sewer option has been selected. In the absence of precise information relating to the ultimate installation technique (e.g. jack and boring vs. installing in an above-grade berm, it is assumed the impact on CA-SDI-12556 would be significant.

Facts in Support of Findings: Potentially significant impacts to CA-SDI-12556 would be mitigated to below a level of significance by implementation of Mitigation Measures 5.8-1 and 5.8-2. Mitigation would require the applicant to conduct an Archaeological Research Design and Data Recovery Program (ARDDRP) for the archaeological site. An archaeologist would monitor all grading and earthmoving activities during construction for the offsite sewer improvement and related wetland revegetation activities within the vicinity of CA-SDI-12556 and within Genesee Avenue. Should burials/cremations or features be located, grading and/or earthmoving activities would be halted for a period of time sufficient to allow for excavation and removal.

A monitoring results report with appropriate graphics summarizing the results, analysis and conclusion of the monitoring program would be submitted to the Development Services Department of the City of San Diego.

V. FINDINGS REGARDING INFEASIBLE MITIGATION MEASURES AND ALTERNATIVES (PUBLIC RESOURCES CODE §21081(a)(3))

The City, having reviewed and considered the information contained in the Final EIR, including the AIS, finds pursuant to Public Resources Code §21081(a)(3) and Guidelines §15091(a)(3) that (i) the Final EIR considers a reasonable range of Project alternatives, and (ii) specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the project alternatives identified in the Final EIR as well as other alternatives or mitigation measures which would reduce the following impact to below a level of significance.

A. Infeasibility of Mitigation for Significant Unmitigated Impacts

1. Freeway Traffic (Direct and Cumulative)

Potential Impacts: The PROJECT could result in significant direct and cumulative impacts to the following two freeway on-ramps: I-5/La Jolla Village Drive, westbound to northbound and I-805/Nobel Drive, eastbound to southbound.

Facts in Support of Findings: Although Mitigation Measure 5.2-2 would require the developer to assure, by permit and bond, construction or a fair share payment of specific freeway ramp meter improvements to reduce impacts to nearby freeway ramps, the impacts would not be

reduced to below a level of significance. Even if additional on-ramp lanes were added, the per-lane queues would be shortened but, if the metering rates do not change, the same traffic flow would be expected and an impact would still exist based on current methodology. Therefore, impacts to nearby freeway ramps would remain significant.

2. Visual Effects/Neighborhood Character (Direct)

Potential Impacts: As the retaining wall and manufactured fill options for the offsite sewer (Options 2B(1) and 2B(2)) would be in contrast to the surrounding open space, significant impacts to neighborhood character would occur if either of these options is selected.

Facts in Support of Findings: Although implementation of Mitigation Measures 5.3-1 and 5.3-2 would require plantings to screen the retaining wall or manufactured fill, impacts would remain significant because the above-ground berm would remain visible from the surrounding area, and would to some degree change the character of Rose Canyon in this area. No additional measures are available to mitigate the impact to below a level of significance. The Visual/Neighborhood character impacts would, however, be avoided by Option 2A which would place this segment of the sewer underground. However, the depth of the sewer line resulting from placement underground could create a safety hazard for City employees responsible for maintaining the sewer line.

3. Public Facilities and Services

Potential Impacts: The PROJECT could result in significant cumulative impacts on the Miramar Landfill capacity due to the general shortage of suitable landfill disposal areas.

Facts in Support of Findings: No project-related measures exist to mitigate for these impacts. While waste management actions (e.g., provisions for recycling) taken by the proposed development would help reduce the contribution of the PROJECT to solid waste disposal impacts, full mitigation of the cumulative impact require actions beyond the control of any one project (e.g., new landfills).

B. Infeasibility of Project Alternatives to Reduce or Avoid Significant Impacts

The Final EIR for the Monte Verde project examined project alternatives in terms of their ability to meet the primary objectives of the 800-unit project and eliminate or further reduce significant environmental effects. Based on these two parameters, the following alternatives were considered: (1) No Project/Development in Accordance with the Community Plan, (2) Reduced Project Alternative: 30-Story, and (3) Reduced Project Alternative: 21-Story. Although the original Final EIR addressed the 30-story alternative as a reasonable alternative to the 800-unit proposal, this alternative no longer offers any substantial environmental benefits when compared to the 560-unit PROJECT. Thus, the 30-story alternative is addressed as an alternative considered but rejected.

1. No Project-Development in Accordance with Community Plan

This alternative would allow buildout of the subject property in accordance with the current University City Community Plan. This alternative would not require an amendment to the Costa Verde Specific Plan and the University City Community Plan. Buildout according to the

Community Plan would result in a 14-story, 400-room hotel on the site. A pedestrian bridge would be constructed across La Jolla Village Drive and the existing pedestrian bridge over Genesee would be enhanced. The offsite sewer improvement would also be part of this alternative.

Potential Impacts: A summary of the environmental impacts of this alternative is provided in Table S-3 of the Final EIR. A comparison of the impact of the No Project alternative to the PROJECT is illustrated in Table AIS-5 of the AIS. Similar to the PROJECT, this alternative could result in significant and not mitigable impacts to traffic and circulation visual effects/neighborhood character (due to the offsite sewer improvement), and cumulative impacts to public services due to solid waste. As with the PROJECT, this alternative could result in significant but mitigable impacts to noise, public services, paleontological resources, biological resources and historical resources. Construction of a hotel would eliminate the need for a University City Community Plan amendment and Costa Verde Specific Plan amendment. The hotel would result in fewer trips added to the local roadways. The reduced building height would eliminate the neighborhood character impact due to building height but eliminate the offsite sewer impact.

Facts in Support of Findings: The No Project-Development in Accordance with the Community Plan Alternative is rejected as infeasible because it would not provide housing that is needed to help meet regional demand.

Furthermore, according to a financial feasibility study completed by Keyser Marston Associates (KMA) in September 2006, this project would not be economically viable. In order for a hotel to be developed on the project site at this time or within the near future, the applicant would be faced with an economic gap ranging from \$40.25 million to \$38.8 million before attributing any value to the land, thereby rendering development of a full service hotel on the site at this time infeasible. The KMA study is available for review at the Environmental Analysis Section of the Development Services Department of the City of San Diego.

2. **Reduced Project Alternative: 21-Story**

Similar to the PROJECT, this alternative would be achieved by eliminating the upper stories from the proposed buildings to result in buildings which would not exceed 21 stories. Based on this assumption, the number of units would be reduced to a maximum of 408 units. The basic design elements and footprint of the Project would remain around the base of the buildings. Access to the site would remain in the same location and parking would be located underground in quantities sufficient to support the residential development pursuant to City requirements. The elevated walkway would be constructed though the site, a pedestrian bridge would be constructed across La Jolla Village Drive, and the existing pedestrian bridge over Genesee Avenue would be enhanced. The offsite sewer improvement would also be part of this alternative. Pursuant to Section 15126(e)(2) of the CEQA Guidelines, this alternative is considered to be environmentally superior.

Potential Impacts: A summary of the environmental impacts of this alternative is provided in Table S-3 of the Final EIR. A comparison of the impact of the 21-story alternative with those of the PROJECT is illustrated in Table AIS-5 of the AIS. Similar to the PROJECT, this alternative would avoid significant visual/neighborhood character impacts associated with developing the

project site. However, as with the PROJECT, this alternative could result in significant and not mitigable impacts to visual effects/neighborhood character due to the offsite sewer improvement, and cumulative impacts to public services due to solid waste. As with the PROJECT, impacts to local intersections would be significant but mitigable with implementation of the mitigation measures contained in Table 5.2-19 of the Final EIR. As with the PROJECT, impacts to freeway ramps would be significant and not mitigated. As with the PROJECT, this alternative could result in significant but mitigable impacts to noise, public services, paleontological resources, biological resources and historical resources.

Facts in Support of Findings:

According to an economic feasibility study completed by KMA dated May 4, 2007, development of 408 units on the project site would not yield an adequate gross sales revenue. The KMA study is available for review at the Environmental Analysis Section of the Development Services Department of the City of San Diego.

In calculating the cost of developing the property, KMA took into consideration the cost of: direct labor and materials to build the project; planning and design costs; and financing. In addition, the analysis took into account the following offsite costs:

- Design and construction of a new fire station (\$8 million);
- Offsite sewer replacement (\$5 million);
- New pedestrian bridge (\$6.5 million);
- Enhanced pedestrian bridge (\$4.5 million); and
- Roadway improvements (\$2.5 million).

Although a portion of the costs associated with these offsite costs may be recovered through collection of fair share contributions from future development within the University Plan area, no guarantee exists that future development will occur. Thus, the analysis does not include this potential reimbursement.

According to the economic study, a development of this type must provide the developer with profit ranging between 12% and 20% of gross sales revenue to be economically feasible. Based on the costs associated with a 21-story (408-unit) alternative, the profit is estimated to not exceed 10.1%. As this is below the low end of the desired profit margin, the 21-story alternative is considered financially infeasible.

4. Alternatives Considered but Rejected

a. Reduced Height/Same Density Alternative

This alternative would consist of 800 units within buildings with a maximum of 28 stories. In order to accomplish this goal, the buildings would be much wider and take up more ground area than the proposed plan. This alternative would not include attached town homes.

While this alternative met the basic goals of completing development within the Costa Verde Specific Plan area and maximizing residential development, it did not offer any substantial reductions in environmental impacts related to the PROJECT. The traffic generation rate and

resulting impacts to local streets and freeway ramps would be proportionately greater than the PROJECT. Noise impacts would be similar. Furthermore, the benefit associated with the reduced building height would be offset by the increased bulk of the building at ground level. The majority of the subject property would be occupied by building footprints. No views through the project would be afforded from adjacent roads. Only minimal area would be available for outdoor amenities such as landscape and plaza areas. It would also be difficult to achieve desirable pedestrian linkage between the pedestrian bridges connecting the project site. As the 30-story alternative would not avoid or substantially lessen impacts associated with the PROJECT, this alternative is rejected.

b. Reduced Project Alternative: 30-Story

This alternative would retain the concept of four residential buildings but would reduce the maximum height from 35 stories to 30 stories. As a result, the number of residential units would be reduced from 800 to 662.

The 30-story alternative was originally addressed because the reduction in height along with reduction in the number of residential units would reduce impacts associated with the 800-unit project. More specifically, the reduced height would reduce, although not avoid, the visual and community character impacts associated with the height of the towers. In addition, the reduction in residential units would proportionately reduce impacts related to traffic. However, the reduction in traffic was not sufficient to avoid all of the traffic impacts to local streets and nearby freeway ramps. In fact the analysis, concluded that the 662-unit project would impact two intersections and two freeway ramps. Other proportionate reduction in the solid waste impacts would derive from the reduced number of residential units.

For purposes of these Findings, the 30-story alternative is rejected because it would offer no substantial environmental benefits in comparison with the PROJECT. The 560-unit project would have less environmental impact than the 30-story alternative due to the fact that the PROJECT would be comprised of 102 less residential units and be 9 stories shorter. Thus, the 30-story alternative fails to meet the requirements of Section 15126.6 of the CEQA Guidelines which requires consideration of an alternatives "...which are capable of avoiding or substantially lessening any significant effects of the project, ...". As the 30-story alternative would not avoid or substantially lessen impacts associated with the PROJECT, this alternative is rejected.

c. Alternative Site

In accordance with Guidelines §15126.6(a), offsite alternatives were considered. The evaluation of offsite alternatives was based on the ability of offsite locations to meet the basic objectives of the PROJECT. The primary objective of the project is to provide additional housing opportunities within the University Community Plan area. Other objectives are to provide housing to serve students, military, seniors and professionals, develop higher density residential within an "urban node" of the City of San Diego, construct a planned pedestrian bridge, and to accommodate pedestrians traveling from the north side of La Jolla Village Drive through the project to the Costa Verde and UTC shopping centers. A search of the surrounding UCP area revealed no vacant land zoned for residential use that was not in some stage of planning or construction. Due to the proposed magnitude of the buildings, the project could not be constructed in the coastal zone, which limits building heights to 30 feet. Other areas such as Clairemont and Mira Mesa were also

considered, and although some vacant land exists with the potential to develop multi-family residential towers, many project objectives would not be achieved as students would not be served, and development would not occur within a defined urban node. Thus, the offsite alternative was rejected.

d. Reduced Traffic Alternative

In order to avoid the traffic impact of the PROJECT, this alternative would involve the development of no more than 250 residential units (1,500 ADT). While this alternative would reduce impacts to traffic and circulation, air quality, noise and aesthetics/neighborhood character/visual quality, and public services, it would not meet the objective to maximize residential development within the Specific Plan area. Therefore, this alternative was rejected from further consideration.

VI. STATEMENT OF OVERRIDING CONSIDERATIONS (PUBLIC RESOURCES CODE §21081(b))

Public Resources Code §21081(b) prohibits approval of a project with significant, unmitigable adverse impacts resulting from infeasible mitigation measures or alternatives unless the agency finds that specific overriding economic, legal, social, technological, or other benefits of the PROJECT outweigh the significant effects on the environment. The PROJECT could have significant, unmitigable, adverse impacts, as described above. However, the City Council finds that those impacts are outweighed by the following specific overriding economic, legal, social, technological, or other benefits of the PROJECT.

The City Council, having considered all of the foregoing, finds that the following specific overriding economic, legal, social, technological, or other benefits of the PROJECT outweigh the aforesaid significant, unmitigable effects on the environment. The City Council expressly finds that the following benefits would be sufficient to reach this conclusion:

1. The PROJECT would facilitate construction of a new fire station by advancing the cost of design and construction of an additional fire station somewhere within the UC Plan area.
2. The PROJECT would provide housing in an urban node which would allow future residents to minimize reliance on the automobile to reach employment, shopping and recreation areas.

The City of San Diego currently has a very limited supply of land designated and zoned for multi-family housing. Increased housing supply would be particularly beneficial in the University/Golden Triangle area because of the large and expanding employment base in that area. Housing near employment sites would help to reduce auto congestion, particularly during peak travel hours.

3. The PROJECT would provide affordable housing by restricting rental rates on 56 units in Garden Communities' portfolio of UC Plan Central Subarea 2 properties instead of paying in-lieu fees.
4. The PROJECT would also enhance an existing pedestrian bridge over Genesee Avenue, including the installation of an elevator providing access to the pedestrian bridge creating alternative ways to access the pedestrian bridge that would benefit disabled or elderly individuals in the community. Furthermore, the enhancement of the pedestrian bridge would encourage individuals to walk to locations nearby and reduce traffic and congestion.
5. The PROJECT would include construction of an elevated walkway connecting to the proposed pedestrian bridge over La Jolla Village Drive and to the upper levels of townhomes and lobbies of Towers A and B. The elevated walkway would continue through the project site and terminate near Genesee Avenue. The elevated walkway termination near

Genesee Avenue would allow for future pedestrian connection to a new transit facility at the UTC shopping center.

6. The PROJECT would provide a free shuttle bus for use by residents of the entire Costa Verde Specific Plan area transporting these residents throughout UC.
7. The PROJECT would also create public areas onsite to promote pedestrian movement. A pocket park would be located between Towers B and C for use by residents and non-residents. The pocket park would be shielded from traffic noise of Genesee Avenue and would be intended for passive recreation uses. A green space would be provided at the base of the proposed pedestrian bridge over La Jolla Village Drive and would include a lawn and plaza filled with movable tables, chairs and benches. Two public courtyards would be provided throughout the PROJECT that incorporate wide pedestrian access ways, public art, seating and special paving.
8. Implementation of the intersection improvements identified in Table 5.2-19 of the Final EIR would result in improvements to the following two intersections which would not be significantly impacted by the PROJECT: La Jolla Village Drive/Regents Road and Genesee Avenue/Esplanade Court. While these improvements are not required under the California Environmental Quality Act, the applicant will construct these improvements as a condition of approval. Improvement of these two intersections would improve traffic flow in the project vicinity.