

Amendments to the Land Development Code ESL Regulations – Wetland Deviations

**City of San Diego
Land Use and Housing
Committee
November 10, 2010**



Introduction

- **ESL adopted to assure protection of resources consistent with conservation principles and private property rights**
- **Impacts to resources allowed only through a Site Development Permit (SDP) consistent with findings as specified in LDC Section 126.0504 (a) (b) (c)**



Findings

Overall, project must be designed to avoid wetland impacts to the maximum extent practicable; the findings to allow for a deviation from the regulations are:

- No feasible measures to further minimize potential adverse impacts on ESL**
- Proposal is minimum necessary to afford relief from special circumstances**



Existing LDC

Currently limited guidance regarding:

- **Evaluation of impacts**
- **Under what circumstances deviations should be considered and approved**



City Council Direction - History

- **Asked staff when wetland impacts may be considered and to develop criteria and analysis for evaluation and decision making**
- **Established working group(s) comprised of environmental organizations, development community and city staff**



Working Groups

- **Met over a several year period**
- **Presented unresolved issues to LU&H:**
 - **Definition of an Essential Public Project**
 - **Use of the Economic Viability Option**
 - **Mitigation ratios for biologically superior projects**



Land Use and Housing

In March 2004, LU&H directed staff:

- **Develop a list of Essential Public Projects**
- **Develop a definition of Essential Public Project**
- **Require double mitigation for biologically superior projects**
- **Complete the environmental review process before proceeding to City Council**



Draft LDC and Bio Guidelines Amendments

The project, evolved based upon:

- **LU&H direction**
- **Wildlife Agencies comments**
- **Amount of time between Committee direction and final preparation of draft amendments and environmental documentation.**



Draft Amendment Language

Section 143.0110 and 143.0101 - Development regulations for Sensitive Biological Resources

- **Minor revisions for clarification and rearrangement of existing language**

Section 143.0150 – Deviations from Environmentally Sensitive Lands Regulations

- **Establishes the only three categories for which deviations from wetland regulations may be requested**



Draft Amendment Language

- **Does not establish any type of exemption.**
- **Applicants must still process a permit to apply for the deviation**
 - **Provide analysis**
 - **Environmental review**
 - **Public comment**
 - **Findings**
 - **Public hearing (Process Level 4)**



Deviation Categories - EPP

Essential Public Projects (EPP) –

- **Projects identified in an adopted land use plan and identified on the Essential Public Projects List adopted by CC resolution**
- **Linear Infrastructure**
- **Maintenance of public infrastructure**
- **State and federally mandated projects**



Economic Viability

- **Deviation may be requested to preserve an economically viable use only for circumstances not of the applicant's making**
- **Minimum necessary to achieve use and shall avoid impacts to the maximum extent practicable**



Biologically Superior

- **Deviation may be requested to implement a superior biological result- provides a net increase in quality and viability**
- **Impacted resources shall be demonstrated to be of low biological quality**



Biology Guidelines - General

- **Minor revisions and reorganization of information**
- **Provides direction for impact analysis for each of the options, including survey protocols**
- **Establishes (consistent with draft LDC language) the three development types that may apply for deviation**



Biology Guidelines - General

- **Establishes criteria for Essential Public Projects**
- **Provides detailed and consistent direction on preparation of economic viability analysis (consistent with Coastal Zone requirements)**
- **Establishes analysis to determine biological quality of wetland types**



Public Outreach

- **E-Blast to over 2000 contacts**
- **Presentations to:**
 - **CPC**
 - **Wetland Advisory Board**
 - **Open Space Canyon Advisory Committee**
- **Ten comment letters received via mail and e-mail**



Environmental Review

- **Supplement to the LDC EIR 96-0333 was prepared (currently being finalized)**
- **Determined no impacts beyond those identified in original EIR**
- **Public comment period extended in response to request from SD Canyon Lands and WAB**
- **Five comment letters received**



Proposed Amendments Do Not:

- **Establish any type of exemption.**
- **Applicants must still process a permit to apply for the deviation**
 - **Provide analysis**
 - **Environmental review**
 - **Public comment**
 - **Findings**
 - **Public hearing (Process Level 4)**



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Home Ave Neighborhood Park

Installation of a box culvert

Proposed Wetland Impacts .01 Acre
Required Mitigation .02 Acre

Proposed Restoration 1.26 Acre



FIGURE 8
Impacts to the City of San Diego MHPA
for the Home Avenue Park Project

Sunshine Beradini Fields

Installation of pedestrian bridge footings

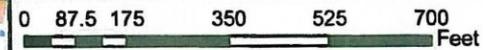
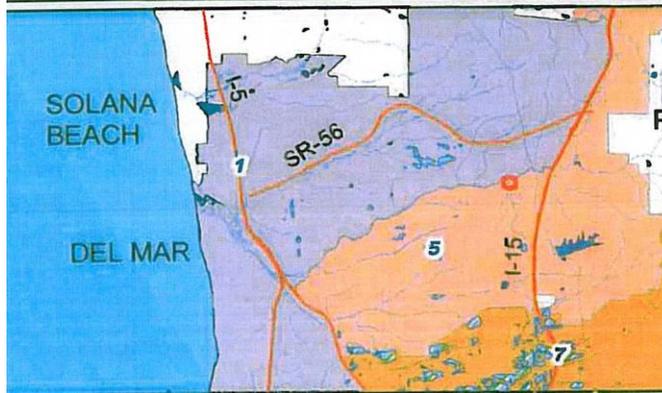
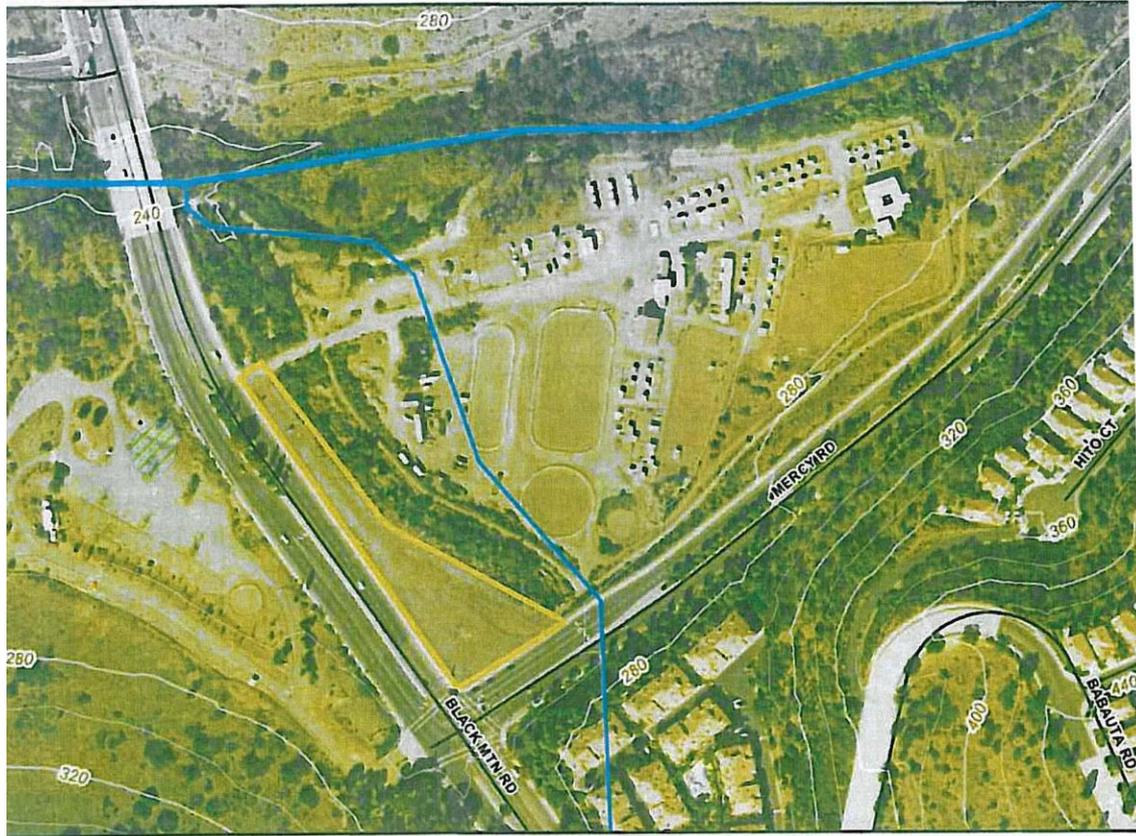
Proposed Wetland Impacts .012 Acre
Required Mitigation .036 Acre



Survey Area
Limits of Work



Rancho Penasquitos - CD1 Los Penasquitos Ranger Station



- Legend**
- | | |
|--------------------------|------------|
| Council Districts | District 5 |
| District 1 | District 6 |
| District 2 | District 7 |
| District 3 | District 8 |
| District 4 | |
| Streams | |
| Minor | |
| Major | |
| Water Bodies | |
| Water Bodies | |
| Vernal Pools | |
| Wetlands | |
| 5' Contour | |
| 5' Intermediate | |
| 25' Intermediate | |