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## Mitigated Negative Declaration

Land Development  
Review Division  
(619) 446-5460

Project No. 54384  
SCH No. 2005091022

**SUBJECT:** PACIFIC COAST OFFICE BUILDING: SITE DEVELOPMENT PERMIT to construct an approximately 9,845 square-foot, two-story office building on a vacant 4.94-acre parcel. The project is located just east of the terminus of Scheidler Way, in the Mission Valley Planned District within the Mission Valley Community Planning area (Lot 1 of Nagel Tract Unit No. 2 Subdivision, Map 4737).

**UPDATE:** **March 5, 2007:** On September 26, 2006, an environmental appeal on the project was before the City Council. City Council granted the appeal and set aside the environmental determination and remanded the matter to the previous decision maker (the Planning Commission). In addition, City Council directed staff to provide additional information in the document regarding the various project designs that had been considered by the applicant, to allow the public to review the project's design process, and to provide for public input through the document recirculation process.

Therefore, based on City Council's direction, this information has been provided and this Mitigated Negative Declaration has been recirculated for public review and input.

- I. PROJECT DESCRIPTION: See attached Initial Study.
- II. ENVIRONMENTAL SETTING: See attached Initial Study.
- III. DETERMINATION:

The City of San Diego conducted an Initial Study which determined that the proposed project could have a significant environmental effect in the following areas(s): **BIOLOGICAL RESOURCES, LAND USE/MSCP, AND PALEONTOLOGICAL RESOURCES**. Subsequent revisions in the project proposal create the specific mitigation identified in Section V of this

Mitigated Negative Declaration. The project as revised now avoids or mitigates the potentially significant environmental effects previously identified, and the preparation of an Environmental Impact Report will not be required.

IV. DOCUMENTATION:

The attached Initial Study documents the reasons to support the above Determination.

V. MITIGATION, MONITORING AND REPORTING PROGRAM:

GENERAL

Prior to the commencement of the preconstruction meeting, the Assistant Deputy Director of the Land Development Review Division (LDR) shall verify that the following mitigation measures are noted within the construction/grading plans and/or specifications submitted and included in the specifications under the heading *Environmental Mitigation Requirements*.

BIOLOGICAL RESOURCES

1. Prior to issuance of the first grading permit, the owner/permittee shall contribute to the City of San Diego Habitat Acquisition Fund (HAF) to mitigate for the loss of 0.64 acre of Diegan coastal sage scrub (tier II) and 0.10 acre of non-native grassland (tier IIIB). The current per acre contribution amount for the HAF is \$25,000 per-acre plus a ten percent (10%) administrative fee. This fee is based on mitigation ratios of 1:1 for Diegan coastal sage scrub and 0.5:1 for non-native grassland impacts (both impacts occurred outside the MHPA, yet mitigation would be required inside the MHPA).
2. Prior to the issuance of any grading permits and/or the first pre-construction meeting, the owner/permittee shall make arrangement to schedule a preconstruction meeting to ensure implementation of the Mitigation Monitoring and Reporting Program (MMRP). The meeting shall include the Resident Engineer (RE), monitoring biologist, monitoring archaeologist, and staff from the City's Mitigation monitoring Coordination (MMC) Section.
3. Prior to the first pre-construction meeting, the applicant shall be responsible for retaining a qualified Biologist and provide a letter of verification to the ADD of LDR stating that a qualified Biologist, as defined in the City of San Diego Biological Resource Guidelines (BRG), has been retained to implement the mitigation measures.
4. At least thirty days prior to the pre-construction meeting, the qualified Biologist shall verify that any special reports, maps, plans and time lines, such as but not limited to, revegetation plans, plant relocation requirements, avian or other wildlife protocol surveys, impact avoidance areas or other such information has been completed and updated.
5. The project biologist shall supervise the placement of orange construction fencing or equivalent along the limits of disturbance within and surrounding sensitive habitats as shown on the approved Exhibit A.

6. All construction activities (including staging areas) shall be restricted to the development area as shown on the approved Exhibit A. The project biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas beyond the limits of disturbance as shown on the approved Exhibit A.

LAND USE/MSCP

1. Prior to initiation of any construction-related grading, the biologist shall discuss the sensitive nature of the adjacent habitat with the crew and subcontractor.
2. Prior to preconstruction meeting, the limits of grading shall be clearly delineated by a survey crew prior to brushing, clearing or grading. The limits of grading shall be defined with appropriate construction fencing and checked by the biological monitor before initiation of construction grading.
3. All lighting adjacent to the MHPA shall be shielded, unidirectional, low pressure sodium illumination (or similar) and directed away from preserve areas using appropriate placement and shields. If lighting adjacent to the MHPA is required for nighttime construction, it shall be unidirectional, low pressure sodium illumination (or similar), and it shall be directed away from the preserve areas and the tops of adjacent trees with potentially nesting raptor species, using appropriate placement and shields.
4. All staging/storage areas for equipment and materials shall be located within the development footprint and shall not encroach onto adjacent sensitive habitat retained within the open space and/or/MHPA areas. No equipment maintenance shall be conducted within or near the adjacent sensitive habitat retained within the open space and/or/MHPA areas
5. Natural drainage patterns shall be maintained as much as possible during construction. Erosion control techniques, including the use of sandbags, hay bales, and/or the installation of sediment traps, shall be used to control erosion and deter drainage during construction activities into the adjacent open space. Drainage from all development areas adjacent to the MHPA shall be directed away from the MHPA, or if not possible, must not drain directly into the MHPA, but instead into sedimentation basins, grassy swales, and/or mechanical trapping devices as specified by the City Engineer.
6. No trash, oil, parking or other construction related activities shall be allowed outside the established limits of grading. All construction related debris shall be removed off-site to an approved disposal facility.
7. No invasive non-native plant-species shall be introduced into areas adjacent to the MHPA.
8. Prior to the preconstruction meeting, the ADD of LDR shall verify that the Multi-Habitat Planning Area (MHPA) boundaries and the following project requirements regarding the coastal California gnatcatcher are shown on the construction plans:

COASTAL CALIFORNIA GNATCATCHER (Federally Threatened)

1. Prior to the preconstruction meeting, the City Manager (or appointed designee) shall verify that the Multi-Habitat Planning Area (MHPA) boundaries and the following project requirements regarding the coastal California gnatcatcher are shown on the construction plans:

No clearing, grubbing, grading, or other construction activities shall occur between March 1 and August 15, the breeding season of the Coastal California gnatcatcher, until the following requirements have been met to the satisfaction of the City Manager:

- A. A qualified biologist (possessing a valid Endangered Species Act Section 10(a)(1)(a) Recovery Permit) shall survey those habitat areas within the MHPA that would be subject to construction noise levels exceeding 60 decibels [dB(A)] hourly average for the presence of the Coastal California gnatcatcher. Surveys for the Coastal California gnatcatcher shall be conducted pursuant to the protocol survey guidelines established by the U.S. Fish and Wildlife Service within the breeding season prior to the commencement of any construction. If gnatcatchers are present, then the following conditions must be met:
  - I. Between March 1 and August 15, no clearing, grubbing, or grading of occupied gnatcatcher habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; and
  - II. Between March 1 and August 15, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 dB(A) hourly average at the edge of occupied gnatcatcher habitat. An analysis showing that noise generated by construction activities would not exceed 60 dB(A) hourly average at the edge of occupied habitat must be completed by a qualified acoustician (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the city manager at least two weeks prior to the commencement of construction activities. Prior to the commencement of construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; or
  - III. At least two weeks prior to the commencement of construction activities, under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 dB(A) hourly

average at the edge of habitat occupied by the Coastal California gnatcatcher. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring\* shall be conducted at the edge of the occupied habitat area to ensure that noise levels do not exceed 60 dB(A) hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the qualified acoustician or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (August 16).

\* Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.

- B. If Coastal California gnatcatchers are not detected during the protocol survey, the qualified biologist shall submit substantial evidence to the city manager and applicable resource agencies which demonstrates whether or not mitigation measures such as noise walls are necessary between March 1 and August 15 as follows:
  - I. If this evidence indicates the potential is high for Coastal California gnatcatcher to be present based on historical records or site conditions, then condition A.III shall be adhered to as specified above.
  - II. If this evidence concludes that no impacts to this species are anticipated, no further mitigation measures are necessary.

#### RAPTORS

1. If the site has a potential to support nests and nesting raptors are present during construction, compliance with the Migratory Bird Treaty Act/Section 3503 would preclude the potential for direct impacts.
2. If there is a potential for indirect noise impacts to nesting raptors, prior to construction within the development area during the raptor breeding season (February 1 through September 15) the biologist shall conduct a preconstruction survey to determine the

presence of active raptor nests. If active nests are detected, the biologist in consultation with EAS staff shall establish a species appropriate noise buffer zone. No construction shall occur within this zone.

PALEONTOLOGICAL RESOURCES

**PRIOR TO PERMIT ISSUANCE**

**A. Land Development Review (LDR) Plan Check**

1. Prior to Notice to Proceed (NTP) for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.

**B. Letters of Qualification have been submitted to ADD**

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

**PRIOR TO START OF CONSTRUCTION**

**A. Verification of Records Search**

1. The PI shall provide verification to MMC that a site specific records search has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified paleontologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring program with the Construction Manager and/or Grading Contractor.

a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.

2. Identify Areas to be Monitored

Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits. The PME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).

3. When Monitoring Will Occur

a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.

b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.

## DURING CONSTRUCTION

### A. Monitor Shall be Present During Grading/Excavation/Trenching

1. The monitor shall be present full-time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.**
2. The monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.
3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.

### B. Discovery Notification Process

1. In the event of a discovery, the Paleontological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

### C. Determination of Significance

1. The PI shall evaluate the significance of the resource.
  - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required. The determination of significance for

fossil discoveries shall be at the discretion of the PI.

- b. If the resource is significant, the PI shall submit a Paleontological Recovery Program (PRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.
- c. If resource is not significant (e.g., small pieces of broken common shell fragments or other scattered common fossils) the PI shall notify the RE, or BI as appropriate, that a non-significant discovery has been made. The Paleontologist shall continue to monitor the area without notification to MMC unless a significant resource is encountered.
- d. The PI shall submit a letter to MMC indicating that fossil resources will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.

#### NIGHT WORK

A. If night work is included in the contract

- 1. When night work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
- 2. The following procedures shall be followed.

- a. No Discoveries

In the event that no discoveries were encountered during night work, The PI shall record the information on the CSVr and submit to MMC via fax by 9am the following morning, if possible.

- b. Discoveries

All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction.

- c. Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction

shall be followed.

- d. The PI shall immediately contact MMC, or by 8AM the following morning to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- B. If night work becomes necessary during the course of construction .
1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
  2. The RE, or BI, as appropriate, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

#### POST CONSTRUCTION

##### A. Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative) which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring,
  - a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program shall be included in the Draft Monitoring Report.
  - b. Recording Sites with the San Diego Natural History Museum  
  
The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.

5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Fossil Remains

1. The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued.
2. The PI shall be responsible for ensuring that all fossil remains are analyzed to identify function and chronology as they relate to the geologic history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate

C. Curation of fossil remains: Deed of Gift and Acceptance Verification

1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

D. Final Monitoring Report(s)

1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

VI. PUBLIC REVIEW DISTRIBUTION:

Draft copies or notice of this Mitigated Negative Declaration were distributed to:

United States  
U.S. Fish and Wildlife Service (23)

State of California  
California Department of Fish and Game (32)  
Regional Water Quality Control Board (44)

State Clearinghouse (46)

City of San Diego:

Council District 6, Councilmember Frye  
Development Services Department  
Planning Department  
Branch Library (MS 17)  
Historical Resources Board (87)

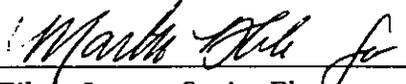
Other

Sierra Club (165)  
San Diego Audubon Society (167)  
California Native Plant Society (170)  
The Center for Biological Diversity (176)  
Citizens Coordinate for Century III (179)  
Endangered Habitats League (182)  
Dr. Jerry Schafer (209)  
South Coastal Information Center (210)  
San Diego Archaeological Society (212)  
San Diego Natural History Museum (213)  
Save Our Heritage Organisation (214)  
Ron Christman (215)  
Louie Guassac (215A)  
San Diego County Archaeological Society (218)  
Native American Heritage Commission (222)  
Kumeyaay Cultural Repatriation Committee (225)  
Native American Distribution (225A-R)  
Serra Mesa Community Council (264)  
Mission Village Homeowners Association (266)  
Normal Heights Community Planning Committee (291)  
Normal Heights Community Planning Association (292)  
Mission Valley Center Association (328)  
Hazard Center (328A)  
Mary Johnson (328B)  
Mission Valley Community Council (328C)  
Union Tribune News (329)  
San Diego River Conservancy (330A)  
Friends of the Mission Valley Preserve (330B)  
Mission Valley Unified Planning Organization (331)  
Mr. Gene Kemp (332)  
Lynn Mulholland (333)  
River Valley Preservation Project (334)

VII. RESULTS OF PUBLIC REVIEW:

- ( ) No comments were received during the public input period.
- ( ) Comments were received but did not address the draft Mitigated Negative Declaration finding or the accuracy/completeness of the Initial Study. No response is necessary. The letters are attached.
- (X) Comments addressing the findings of the draft Mitigated Negative Declaration and/or accuracy or completeness of the Initial Study were received during the public input period. The letters and responses follow.

Copies of the draft **Mitigated Negative Declaration**, the Mitigation, Monitoring and Reporting Program and any Initial Study materials are available in the office of the Land Development Review Division for review, or for purchase at the cost of reproduction.

  
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Eileen Lower, Senior Planner  
Development Services Department

March 05, 2007  
Date of Draft Report

May 4, 2007  
Date of Final Report

Analyst: SHEARER-NGUYEN



San Diego County Archaeological Society, Inc.

Environmental Review Committee

10 March 2007

City staff response(s) to San Diego County Archaeological Society, Inc. comment letter for  
Pacific Coast Office Building, Project No. 54384

To: Ms. Elizabeth Shearer-Ngiyen  
Development Services Department  
City of San Diego  
1222 First Avenue, Mail Station 501  
San Diego, California 92101

Subject: Draft Mitigated Negative Declaration  
Pacific Coast Office Building  
Project No. 54384

Dear Ms. Shearer-Nguyen:

I have reviewed the subject DMND on behalf of this committee of the San Diego County Archaeological Society.

Based on the information contained in the DMND and initial study, and the cultural resource survey report for the project, we agree that the project should have no significant impacts on historical resources. We also agree that no mitigation measures for historical resources are necessary.

Thank you for providing these documents to SDCAS for our review and comment.

Sincerely,

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

cc: Kyle Consulting  
SDCAS President  
File

1. This comment is noted.

From: "Ernie Bonn" <uhcdc@netzero.net>  
To: <dsdeas@sandlego.gov>  
Date: 4/1/2007 4:11:09 PM  
Subject: Project #54384-sch - Parcel # 439-480-24 - Pacific Coast Office Bldg.

Attention: Elizabeth Shearer-Nguyen

Attached is a letter in opposition to the Mitigated Negative Declaration compiled by your Dept. on the above project. Please distribute this to Council Members prior to its being scheduled on the Council docket.

Ernestine Bonn

CC: "April Chesebro" <AChesebro@sandlego.gov>, <donnafrye@sandlego.gov>

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City staff response(s) to E. Bonn/University Heights Development Corporation/University Heights Urban Design  
Review Council and Planning Committee comment letter for  
Pacific Coast Office Building, Project No. 54384

2. The attached letter will become part of the administrative record for this project. It will be included in the final MND, which will be distributed to the City Councilmembers prior to the hearing should the proposed project be appealed to the Council.

March 31, 2007

Elizabeth Shearer-Nguyen  
Development Services Dept.  
1222 First Ave., MS 501  
San Diego, CA 92101

Re: Project # 54384-sch #pending Parcel # 439-480-24  
Pacific Coast Office Building

Dear Ms. Nguyen:

The University Heights Community Development Corporation (UHCDC) in conjunction with the University Urban Design Review Council & Planning Committee (UHDC & PC) supports the position of the Mission Valley Community Council and the other organizations that oppose the proposed Mitigated Negative Declaration (MND) that was compiled by the Development Services Dept. The MND is paid for by the developer of the Pacific Coast Office Building, which appears to be a conflict of interest.

On September 26, 2006 the City Council upheld the appeal of the project by the community organizations. In 1992 the City Council designated the parcel in question as open space. The developer purchased this land in 1993 knowing this to be the case yet continues to attempt to develop this land in an inappropriate manner. The Mission Valley Community Plan states that nothing is to be built above the 150 foot contour level, yet this MND permits it as well as many other violations of statutes and codes that apply to open space and sensitive lands

A large portion of University Heights is on the hillside above Mission Valley and in the past has been greatly affected by inappropriate development like this project that has caused hillside erosion with hardly any compliance through the City's Neighborhood Code Department. Because one of the major corridors from and into Mission Valley and the freeways is Texas Street, traffic through the neighborhood surface streets creates serious congestion.

The UHCDC distributed a survey in the University Heights community in order to compile information on what impacts from the development in Mission Valley were felt to be the most serious, and the responses verified traffic, environmental issues regarding loss of natural vegetation, hillside erosion and runoff, noise and infrastructure deficits. Fires have also been a constant problem because weed clearance by the City at the base of the hillsides is a low priority. These hillsides and canyons act as buffers between the floor of Mission Valley and the residential areas above.

We feel that this development should not go forward as it will set a precedent for yet more intrusion into our hillsides.

Sincerely,

Christopher F. Milnes, Executive Director UHCDC  
Mary Wendorf, Chair, UHDC & PC

3. The City of San Diego requires discretionary project applicants to pay for all of the work done by City staff in the course of the project review and permitting process, which is allowable under Section 15045 of the California Environmental Quality Act (CEQA) Guidelines. The developer is billed for staff's time; however, it should be understood that professional environmental staff members of the City of San Diego's Development Services Department prepared the MND. While staff may require the applicant to pay for technical reports and may request additional information regarding the project, the MND represents the independent analysis of the City of San Diego as Lead Agency under CEQA. CEQA Section 15074(b) states that prior to approving a project, the decision-making body of the lead agency shall consider the proposed mitigated negative declaration (MND) with any comments received during the public review process. The decision making body shall adopt the proposed MND only if it finds on the basis of the whole record before it that there is no substantial evidence that the project will have a significant effect on the environment and that the MND reflects the lead agency's independent judgment and analysis.
4. This comment is noted.
5. The redesignation of several southern hillside areas to open space as part of the April 21, 1992 City Council action identifies that only a portion of parcel 439-480-24, which is the subject property, was redesignated to open space. In the 1992 City Council action, the subject parcel was not designated in its entirety as open space. Only a portion of the subject site was designated open space as referenced in the attachments to R-279807, "Amendment to the Mission Valley Community Plan." Refer to comment number 35.
6. These comments are noted.
7. The Mission Valley Community Plan states that no-large scale development should cut or grade, or extend above the 150' elevation contour on the southern slopes. Given that abutting parcels include development that is up to 71,000 sq. ft in floor area, and average 30,000 sq. ft., staff determined that the proposed structure of less than 10,000 sq. ft can be considered small-scale. In addition, the purpose and intent of the community plan policies regarding development limitations above the 150' contour is for the preservation of the valley's hillside areas. The community plan's objectives for hillside preservation are being met with 3.92 acres of the 4.94-acre site within a protected open space easement that is not proposed for development. In addition, the project is subject to the Mission Valley Planned District Ordinance (MVPDO), which restricts development within the Hillside Sub-district from encroaching above the 150-foot. However, the MVPDO allows exceptions to this restriction under certain conditions. As explained on pages 23-25 of the Initial Study, the subject project was determined by staff to meet the conditions for such an exception.
8. It should be understood that the MND does not permit or approve the project or any of the project components. The purpose of the MND is to disclose to the public and the decision makers the potential environmental effects of the project, and to identify appropriate mitigation measures aimed at reducing the project's significant impacts to below a level of significance.

City staff response(s) to E. Bonn/University Heights Development Corporation/University Heights Urban  
Design Review Council and Planning Committee comment letter for  
Pacific Coast Office Building, Project No. 54384

8. (Continued) The decision-making body of the Lead Agency must consider the environmental document before approving any project with an associated environmental document, and is required to decide whether to approve the environmental document on the basis of the Initial Study and any public comment received (CEQA Guidelines 15074).
9. These comments are noted. Development projects in and of themselves do not set precedent for later approvals. Each project application is reviewed under its own unique circumstances. If the proposed project application meets the findings required for approval, the project may be approved. If the findings cannot be met, the project may not be approved. No project is approved simply because another similar project was approved under similar circumstances. Each project must stand on its own.

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Lynn Mulholland  
P.O. Box 900234  
San Diego, California  
92190

March 31, 2007

City staff response(s) to Lynn Mulholland comment letter for  
Pacific Coast Office Building, Project No. 54384

Elizabeth Schearer-Nguyen  
Environmental Planner  
Development Services  
1222 First Av.  
MS 501  
San Diego, California 92101

Dear Ms. Shearer-Nguyen,

On September 26, 2006, the RIVER VALLEY PRESERVATION PROJECT, THE SIERRA CLUB, THE AUDOBON SOCIETY, AND THE MISSION VALLEY COMMUNITY COUNCIL appealed development of Parcel #439-480-24 to the San Diego City Council. The City Council unanimously honored the appeal.

The Mitigated Negative Declaration presented is the same that the City unanimously rejected. The violations of the MISSION VALLEY COMMUNITY PLAN, THE MISSION VALLEY PLANNED DEVELOPMENT ORDINANCE, THE DEVELOPMENT INTENSITY DISTRICT ORDINANCE, AND GENERAL PLAN remain.

EXHIBIT A: MVCP 1985 PAGE 107

Preserve as open space those hillsides characterized by steep slopes or geological instability.

Designate the hillsides and canyons which have any of the following characteristics as open space -

- a. Contain rare or endangered species of vegetation or animal life
- b. Contain unstable soils.
- c. Contain the primary course of a natural drainage pattern.
- d. Located above the 150 foot elevation contour.

MVPDO CODE 103.2107(3)(A) - 'Development, including roads, shall not occur above the 150 foot contour line.'

GENERAL PLAN - No development that compounds existing deficiencies.

Presently in MISSION VALLEY:

- a. Gridlock, Gridlock, Gridlock.
- b. No population based park.
- c. No permanent Fire Station.
- d. Not one K-12 School.

On April 12, 1992, Council Member J. McCarty proposed and the San Diego City Council unanimously approved an amendment to the MVCP by Resolution #279807. Amendment #279807 included the following changes to the MVCP:

EXHIBITS: B, C, D, AND E.

CITY OF SAN DIEGO INFORMATION BULLETIN - EXHIBITS F AND G

Parcel #439-480-24 noted. Applicant requested deviation from MVPDO Code 103.2107(3)(A).

EXHIBIT H - MANAGER'S REPORT

"Development on the remaining areas above the 150 foot contour level is already severely restricted by the MVCP, PDO, and DIDO. THUS, NO REZONES ARE CONSIDERED NECESSARY AT THIS TIME. -"

10. These comments are noted.

11. While the MND was revised at the direction of the City Council, the proposed project is the same one that was analyzed in the previous MND. At the September 26, 2006 hearing, Council directed staff to provide more information on project alternatives designed to reduce impacts. It should be understood that a discussion of a reasonable range of project alternatives is a required element of Environmental Impact Reports (EIRs). The alternatives must be capable of avoiding or reducing the significant unavoidable impacts of the proposed project. The public agency decision-making body has the authority to approve or deny the proposed project, or to choose one of the alternatives. Sections 15120 through 15132 of the CEQA Guidelines contains a detailed description of the required contents of an EIR.

EIRs are required when there is substantial evidence that a project may result in a significant effect on the environment (please refer to CEQA Guidelines Section 15064). However, not all projects require the preparation of an EIR - Section 15070 of the CEQA Guidelines states:

"A public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when:

- (a) The initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, or,
- (b) The initial study identifies potentially significant effects, but:
  - (1) Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and
  - (2) There is no substantial evidence in light of the whole record before the agency, that the project as revised may have a significant effect on the environment."

11. (Continued). In the case of the Pacific Coast Office Building project, the initial study identified potentially significant effects in the issue areas of land use (MSCP), biological resources, and paleontological resources. All of these potentially significant impacts could be reduced to below a level of significance through mitigation measures, and the applicant agreed to implement the measures. Staff therefore prepared an MND in accordance with the requirements of CEQA.

The required contents of a Negative Declaration (or Mitigated Negative Declaration) are listed in Section 15071. They include:

- (a) A brief description of the project, including a commonly used name for the project, if any;
- (b) The location of the project, preferably shown on a map, and the name of the project proponent;
- (c) A proposed finding that the project will not have a significant effect on the environment;
- (d) An attached copy of the Initial Study documenting reasons to support the finding; and
- (e) Mitigation measures, if any, included in the project to avoid potentially significant effects.

As shown above, an alternatives analysis is not a required component of an MND. In an effort to comply with Council's direction while staying within the parameters of CEQA's MND requirements, staff revised the MND to include a description of the various design iterations presented to the City by the applicant. As the project does not meet the criteria for the preparation of an EIR, it should be understood that the various preliminary designs do not meet the criteria for standard CEQA project alternatives that would be included within an EIR.

12. These comments are noted, and the attached exhibits have been included as part of the administrative record.

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In NOVEMBER 2003, prior to purchase, applicant knew that PARCEL was in [redacted] in designated [redacted] space, free of development above the 150 foot contour line. Note that at [redacted] of EXHIBIT G, the sentence requesting deviation from PDO. Also, note PARCEL #439-480-24 of EXHIBITS E & F.

COMM. COMMENTS:

BOARD OF DIRECTORS-NORMAL HEIGHTS COMM. PLANNING GRP. VOTED"  
10-0-0 against PCOB.  
UNIVERSITY HTS. COMM. DEVELOPMENT CORPORATION VOTED AGAINST PCOB.  
BOARD OF DIRECTORS-MVCC VOTED 5-0-0 AGAINST PCOB.  
BOARD OF DIRECTORS-RVPP VOTED AGAINST PCOB.  
SIERRA CLUB - LOCAL - VOTED AGAINST PCOB.  
AUDOBON SOCIETY -LOCAL - VOTED AGAINST PCOB,

THE MND IS AN OFFICIAL CITY DOCUMENT. WHAT HAPPENED??? The concern is 13.  
that the staff that prepared the MND is apparently paid by the developer.  
We request Council Members to represent the electorate: Deny the project. 14.

Sincerely,



Lynn Mulholland  
Co-Chair MVCC

CC. C.MEMBERS:

Frye'  
Atkins  
Young  
Hueso  
Peters  
Madafer  
Maienschein  
Faulconer  
Aguirre  
Schoenfishch  
Sanders

City staff response(s) to Lynn Mulholland comment letter for  
Pacific Coast Office Building, Project No. 54384

13. Please see response No. 3 above.
14. The commentor's request for the Council to deny the project is noted. It should also be noted that the proposed project is a Process 3 decision. Process 3 decisions are made by a Hearing Officer with appeal rights to the Planning Commission. The Process 3 decisions are not appealable to the City Council. The City Council has appellate review of the Environmental Document only. Therefore, while the City Council may rule on the adequacy of the Environmental Document, the decision regarding the overall project is reserved for the Hearing Officer and/or Planning Commission.

EX. H

HILLSIDES

Hillsides are geological features on the landscape whose slope and soils are in a balance with vegetation, underlying geology and the amount of precipitation. Maintaining this equilibrium reduces the danger to public health and safety posed by unstable hillsides. Development affects this equilibrium. Disturbance of hillsides can result in the loss of slope and soil stability, increased run-off, and intensified erosion; it can also destroy a community's aesthetic resources. The southern slopes of Mission Valley mark the community's boundary and provide an attractive and distinctive setting.

The open space areas shown in the *General Plan and Progress Guide* for the City of San Diego are predominantly comprised of steep hillsides and small undeveloped canyons. The southern slopes of Mission Valley are identified as part of that open space system. The major portion of the slopes are currently zoned for low-density residential development (R-1-5000, R-1-40,000), and are further regulated by the Hillside review (HR) Overlay Zone. As demand for land increases, these hillsides are more likely to face development pressure. Due to the impact hillside development can have on the community's health and safety, and on land, water, economic, and visual resources, it is apparent that if they are developed it must be in a manner compatible with hillside ecology. Whereas the southern slopes have been maintained in close to their natural state, the northern hillsides have been extensively modified and disturbed by extraction and building activities. Development oriented toward the Valley and accessed by roads from the Valley floor should not extend above the 150-foot elevation contour.

OBJECTIVE

- Preserve as open space those hillsides characterized by steep slopes or geological instability in order to control urban form, insure public safety, provide aesthetic enjoyment, and protect biological resources.

PROPOSALS

- Designate the hillsides and canyons which have any of the following characteristics as open space in the community.

- a. Contain rare or endangered species of vegetation or animal life.
- b. Contain unstable soils.
- c. Contain the primary course of a natural drainage pattern.

d. Located above the 150-foot elevation contour.

- Permit only low intensity developments to occur on remaining hillsides within the HR Zone, located below the 150-foot elevation contour.
- Open Space easements should be required for those lots or portions of lots in the HR Zone
- Lot splits should not be permitted on hillsides within the HR Zone except to separate that portion of a lot in the HR Zone from that portion not in the HR Zone for purposes of obtaining open space easements.
- Development intensity should not be determined based upon land located within the HR Zone.
- Encourage the use of planned developments (PRD/PCD) to cluster development and retain as much open space area as possible.
- Preserve the linear greenbelt and natural form of the southern hillsides.
- Rehabilitate the northern hillsides and incorporate them into future development.

DEVELOPMENT GUIDELINES

- Grading required to accommodate any new development should disturb only minimally the natural terrain. This can be achieved by:
  - a. Contouring as naturally as possible to maintain the overall landform.

Mission Valley Community Plan Page 107 Attachment 4

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City staff response(s) to Lynn Mulholland comment letter for Pacific Coast Office Building, Project No. S4384

EX B

1/21/92

AMENDMENT  
TO THE  
MISSION VALLEY COMMUNITY PLAN

On April 21, 1992, the City Council adopted an amendment to the Mission Valley Community Plan by Resolution No. 279807. The amendment resulted in the following changes to the community plan:

Page 40, Figure 5, Land Use Plan. The redesignation of several southern hillside areas to open space. Community plan and land use designation boundary adjustments were also made and the Light Rail Transit (LRT) alignment was added to this map.

Page 52, Figure 6, FSDRIP Specific Plan Map. Deleted.

Page 53, Figure 7, Northside Specific Plan Map. Deleted.

Page 54, Figure 8, Atlas Specific Plan Map. Deleted.

Page 55, Figure 9, Levi-Cushman Specific Plan Map. Deleted.

Page 56, Figure 10, Specific Plan/Multiple Use Areas Map. Revise to illustrate specific plan boundaries.

Page 76, Figure 17, Proposed Light Rail Transit w/ Shuttle Service Map. Revise to illustrate the adopted LRT line and station locations.

The adopted map changes are attached. These revisions will amend the Mission Valley Community Plan. No text changes were adopted in conjunction with this amendment.

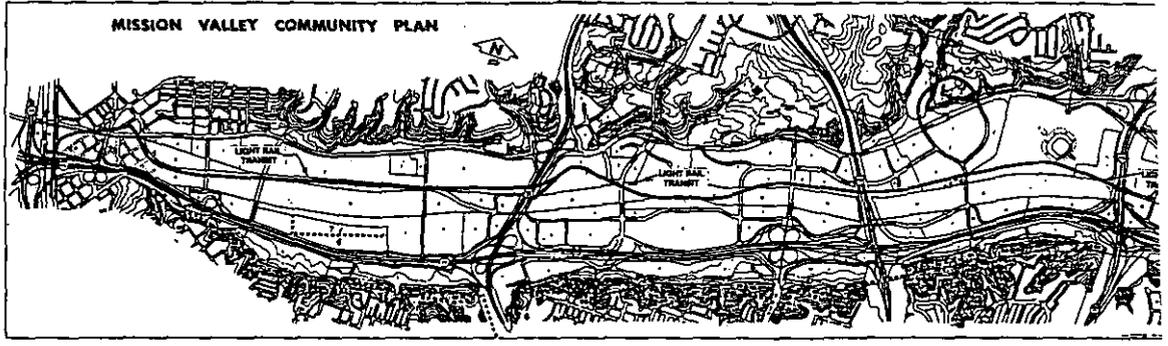
For further information regarding these amendments, contact the Mission Valley Community Planner at (619) 533-3650.

DOCUMENT NO. 279807  
FILED APR 21 1992  
OFFICE OF THE CITY CLERK  
SAN DIEGO, CALIFORNIA

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City staff response(s) to Lynn Mulholland comment letter for Pacific Coast Office Building, Project No. 54384

EX. C



- LEGEND**
- [Symbol] RESIDENTIAL
  - [Symbol] RESIDENTIAL / OFFICE MIX
  - [Symbol] COMMERCIAL - RETAIL
  - [Symbol] COMMERCIAL - OFFICE
  - [Symbol] COMMERCIAL - RECREATION
  - [Symbol] OFFICE OR COMMERCIAL RECREATION
  - [Symbol] MULTIPLE USE
  - [Symbol] BUSINESS / INDUSTRIAL PLAZA
  - [Symbol] INDUSTRIAL
  - [Symbol] HIGHWAY AND SCHOOL
  - [Symbol] PUBLIC RECREATION
  - [Symbol] OPEN SPACE
  - [Symbol] BOUNDARY
  - [Symbol] ADMINISTART AREAS
  - [Symbol] AREAS ABOVE THE 100 FOOT CONTOUR LEVEL DESIGNATED FOR OPEN SPACE.

City staff responded to Lynn Mulholland comment letter for Pacific Coast Office Building, Project No. 34398

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EX D

Site Summary - Sites A through E

City staff response(s) to Lynn Mulholland comment letter for Pacific Coast Office Building, Project No. 54384

Site A

Size: 5.14 acres (approx.)  
Location: South of Hotel Circle South just east of the Taylor Street overpass  
Parcel Nos.: 443-040-29, -30 (por.), -31, -32, -33  
Ownership: Vincent & Gladys Kobets, Animal Clinic, Pacer Coast Development Corp., John Shattuck, Jeffrey Binter  
Use: Two single-family dwellings, vacant hillsides and flatter areas  
Community Plan Designation: Office or Commercial-Recreation  
Zone: R1-40000, some Hillside Review Overlay Zone

Site B

Size: 0.45 acre  
Location: West of Texas Street, south of Camino del Rio South  
Parcel Nos.: 438-140-14  
Ownership: Harold & Helen Sadleir  
Use: Vacant hillside  
Community Plan Designation: Commercial-Office  
Zone: R1-40000/Hillside Review Overlay Zone

Site C

Size: 11.54 acres  
Location: South of Camino del Rio South, east of I-805  
Parcel Nos.: 439-080-19 and 439-040-32  
Ownership: Mission Valley 34th Street, City of San Diego  
Use: Vacant hillsides with flatter drainage area  
Community Plan Designation: Commercial-Office; Residential/Office Mix  
Zone: R1-40000, some Hillside Review Overlay Zone

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EX 2

Site D

Size: 5.81 acres (approx.)  
Location: South of Camino del Rio South, west of I-15  
Parcel Nos.: 439-520-20 and 439-480-24 (por.)  
Ownership: Phoenix Mutual Life Insurance, Raymond and Rebecca Willenberg  
Use: Vacant hillside  
Community Plan  
Designation: Commercial-Office  
Zone: R1-40000/Hillside Review Overlay Zone

Site E

Size: 12.72 acres  
Location: South side of Camino del Rio South, east of Fairmount Avenue  
Parcel Nos.: 461-350-03, -04, -06  
Ownership: City of San Diego, National University  
Use: National University parking lots and vacant hillsides (CUP in process for a church)  
Community Plan  
Designation: Commercial-Office  
Zone: R1-40000, some Hillside Review Overlay Zone

City staff response(s) to Lynn Mulholland comment letter for Pacific Coast Office Building, Project No. 54384

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EAF

C. GENERAL PROJECT INFORMATION

- 1. Project Address: Camino del Rio South
- 2. Assessor's Parcel Number(s) (APN): 439-480-24 Parcel Size: 5 acres
- 3. Legal Description: Lot 1 of NAGEL TRACT UNIT NO 2 SUBDIVISION according to Map No. 4737
- 4. Existing Use: Vacant Land
- 5. Proposed Use (Check all that apply):  Single Dwelling  Multiple Dwelling (no. of units \_\_\_\_\_)  
 Commercial  Industrial  Scientific Research  Office  Other: \_\_\_\_\_  
Describe the use:  
Medical office

6. Project Description:

See attached.

7. Describe Project Background (what and when was the last development activity on the site)?

The project site is vacant. There has been no development activity on the site.

8. List all permits/approvals related to the project (e.g., board of appeals approvals, lot line agreements, easement agreements, building restricted easements, development permits, policy approvals, subdivision approvals, or other special agreements with the city), if any:

Open space easement with the City of San Diego recorded December 17, 1982 as Instrument No. 82-386778

9. Does the project include new construction?  Yes  No

If Yes, what is the proposed Height/Number of Building Stories: 2 stories

10. Does the project include an interior remodel (tenant improvement)?  Yes  No

11. List any requested permits, actions or approvals:

Site Development Permit and a Mission Valley Development Permit.

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D. What are the proposed public improvements?

*E.K.G*

F. DEVELOPMENT PERMIT AND POLICY APPROVAL PROJECT INFORMATION

Respond to the following questions if your preliminary review will include issues involving land use or property development regulations, such as subdivisions, use permits land use plan amendments, etc.

1. Which Community Planning area is the project located within? Mission Valley and Normal Heights  
(ACCORDING TO THE PARCEL INFORMATION CHECKLIST)

2. Will the request include a Community Plan Amendment?  Yes  No

If yes, please describe the amendment:

3. What is the base zone of the project premises (Include the name of the Planned District, if applicable)?

Mission Valley Planned District-Commercial Office (MVPD-CO)

4. Does the project site have any structures that are over forty-five years old?  Yes  No

5. Could the structures be historically significant for any reason?  Yes  No

If yes, please explain:

The Parcel Information Checklist shows that the property contains historical resources, but there are no structures on the property. Is this just an error?

6. Is your project located in an area of sensitive biological resources, the City's Multiple Habitat Planning Area (MHFA), wetland, riparian, etc?  Yes  No

7. Will your project generate new storm water runoff?  Yes  No

8. Will there be a request for Rezone?  Yes  No

If Yes, what zone is proposed?

9. Proposed Parking Ratio: 4/1000 sf

10. List any deviation or variance requests:

The applicant is requesting a deviation from Code Section 103.2107(3)(A) regarding non-conformant alleys 150-foot contour line.

*He knew of this issue before buying property. He bought it in 12-03.*

City staff response(s) to Lynn Mulholland comment letter for Pacific Coast Office Building, Project No. 54384

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EXH

considered on a case-by-case basis if proposed by the property owners. However, any development of these areas would be subject to the trip provisions of the Mission Valley Development Intensity District and Planned District Ordinance which would trigger a special permit if over a nominal threshold. In addition, depending on what portion of the site would be impacted by development, a Hillside Review Permit may also be required. Development on the remaining areas above the 150-foot contour level is already severely restricted by the Mission Valley Community Plan, Planned District Ordinance and Development Intensity District Ordinance. Thus, no rezones are considered necessary at this time.

Boundary Adjustments

This amendment to the Mission Valley Community Plan Land Use Map would correct the community boundary line on the southern and eastern sides of Mission Valley to be consistent with adjacent communities and the official Mission Valley boundary line. In addition, the multiple use designation boundary lines would be corrected at two locations on the Mission Valley Community Plan Land Use Map (Attachment 1a).

Light Rail Transit (LRT) Line

Metropolitan Transit Development Board (MTDB) staff has requested that the adopted Mission Valley West Light Rail Transit (LRT) line be illustrated on the Mission Valley Community Plan Land Use Map as well as on Figure 17 of the Plan. MTDB staff believes that illustration of the LRT line on the Land Use Map, together with existing and proposed roads, would present a comprehensive picture of future transportation facilities in Mission Valley. The City Manager concurs with this request and the revised figure is illustrated on Attachment 1a.

MTDB staff also requested that the LRT alignment previously illustrated on Figure 17 of the community plan be updated to illustrate the adopted alignment (Attachment 1g). In addition, MTDB staff proposed revisions to the Intra-Valley Shuttle Bus Route shown on Figure 17. Planning staff originally concurred with these requests and the Planning Commission approved these changes. However, a Mission Valley property owner subsequently questioned the modifications to the Intra-Valley Shuttle Bus Route shown on Figure 17. Upon further review, it was determined that changes to the Intra-Valley Shuttle Bus Route had not been approved by the MTD Board. Rather, the bus route changes were a prediction by MTDB staff of what is likely to occur. Because of this, the City Manager is recommending that the shuttle bus route previously included on Figure 17 of the community plan be retained. The LRT line would be revised to illustrate the adopted alignment. The proposed Figure 17 is shown on

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Affn: Joe Deegan  
P. 1 of 19

# 337  
4-21-92

The City of San Diego

# MANAGER'S REPORT

City staff response(s) to Lynn Mulholland comment letter for  
Pacific Coast Office Building, Project No. 54384

DATE ISSUED: April 14, 1992                      REPORT NO. P-92-097  
ATTENTION: Honorable Mayor and City Councilmembers, Agenda of  
April 21, 1992.  
SUBJECT: MISSION VALLEY COMMUNITY PLAN/GENERAL PLAN  
AMENDMENT.  
REFERENCE: City Council Hearings of July 9 and 23, 1990  
regarding the Mission Valley Planned District  
Ordinance.

## SUMMARY:

Issues: - This report addresses an amendment to the Mission Valley Community Plan and the Progress Guide and General Plan to redesignate several hillside areas south of Interstate 8 from various commercial designations to open space. In addition, other amendments to the Mission Valley Community Plan are proposed to correct boundary errors and add clarity to the Plan regarding the Mission Valley West Light Rail Transit line and specific plan areas.

Planning Commission Recommendation: - On January 23, 1992, the Planning Commission voted 5 to 0 to approve and recommend City Council adoption of the proposed Mission Valley Community Plan/General Plan Amendment.

Manager's Recommendation: - APPROVE the proposed Mission Valley Community Plan/General Plan Amendment.

Community Planning Group Recommendation: - On February 5, 1992, the Mission Valley Unified Planning Committee voted 15-0-1 to approve the Mission Valley Community Plan/General Plan Amendment.

Other Recommendations: - On January 21, 1992, the Greater North Park Planning Committee voted 8-0-3 to approve the Mission Valley Community Plan/General Plan Amendment. On February 4, 1992, Uptown Planners voted 17-0-1 to approve the project. The Normal Heights and Kensington-Talmadge community planning groups have been notified of the proposal but have not submitted recommendations to date.

R-279807

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From: "Jim Baross" <JimBaross@cox.net>  
To: <dsdeas@sandiego.gov>  
Date: Mon, Apr 2, 2007 11:33 AM  
Subject: Pacific Coast Building!?! No canyon encroachment!

Elizabeth:  
I am current Chair of the Normal Heights Community Planning Group. I am writing to inform or remind you that the NHCPG was unanimously opposed to and denied approval of this project. It should not be allowed to be developed as planned.

I was notified that the project, Project 54384/SCH # pending on Parcel # 43948024, is apparently being allowed to go forward by Development Services even though the planning groups including the Normal Heights Community Planning Group and the City Council, apparently, were against it - primarily for its building on what we all had expected/hoped to continue to be protected Mission Valley slopes.

Jim Baross  
619-280-6908

CC: Councilmember Toni Atkins  
Melissa Devine  
Monica Pelaez

CC: <toniatkins@sandiego.gov>, "Melissa Devine" <MDevine@sandiego.gov>, <mpelaez@sandiego.gov>

City staff response(s) to Jim Baross electronic mail comment letter for Pacific Coast Office Building, Project No. 54384

15. This comment is noted.

16. The Development Services Department processes applications for proposed projects – it has no authority to prohibit a project proponent from applying for a permits or projects. That authority to approve or deny a project is vested in the City's decision-making bodies. The project has not been denied by the decision making authority. The applicant was directed by the City Council to modify the Environmental; Document and reappear before the Planning Commission. This MND is a part of that process as directed.

From: "ellenshively" <ellenshively@sbcglobal.net>  
To: <ESHEARERNGUYEN@SanDiego.Gov>  
Date: 4/2/2007 1:22:18 PM  
Subject: Request for Withdrawal of Project Parcel#54384

Dear Ms Shearer-Nguyen:

Enclosed you will find compelling reasons to deny the approval for application for developing Parcel #54384-SCH - pending. I understand the deadline for public comments is 4 April.  
Thank you for reading this letter and acting in a responsible way.

Ellen Shively  
Sierra Club representative for the Appeal

CC: <DSDEA@SanDiego.Gov>

City staff response(s) to Ellen Shively electronic mail comment letter for  
Pacific Coast Office Building, Project No. 54384

17. This comment is noted.

April 2, 2007

TO: Elizabeth Shearer-Nguyen  
Development Services Department  
San Diego, Ca 92102  
Project No. 54384-SCH# Pending

Dear Ms. Schearer-Nguyen;

Please deny the above named project as applied for by Dr. Robert Pennock. This project has gone round and round the circuit because the developers are not adhering to the guidelines as required at the last hearing officer, and by City Council.

The new Mitigated Negative Declaration is invalid as it does not follow City Council's direction to "review the alternatives to reduce the impacts to the land"! In fact, the most recent proposal contains an alternative rejected at the hearing, and does not reduce the visual and geologic impacts at all. CEQA is not given due enforcement by this willful neglect.

Page 46 of the September 26, 2006 Minutes of the City Council meeting states the following regarding City Council action on the appeal of Sierra Club, San Diego, Audubon, San Diego, Mission Valley Community Council and River Valley Preservation Project:

"MOTION BY FRYE TO GRANT THE APPEAL AND SET ASIDE THE ENVIRONMENTAL DETERMINATION (MITIGATED NEGATIVE DECLARATION) NO. 54384). REMAND THE MATTER TO THE PREVIOUS DECISION MAKER WITH DIRECTION TO REVIEW THE ALTERNATIVES TO REDUCE THE IMPACTS. DIRECT THE CITY ATTORNEY TO PREPARE THE APPROPRIATE RESOLUTION PURSUANT TO SECTION 40 OF THE CITY CHARTER." (CAPS are as seen in original.)

The above City Council direction "to review the alternatives to reduce the impacts" is not found in the "new" MND. Rather, in the second sentence in the "new" MND quote below, staff inserts their own language in its place and turns the City Council direction upside down:

"UPDATE: City Council granted the appeal and set aside the environmental determination and remanded the matter to the previous decision maker (the Planning Commission). In addition, City Council directed staff to provide additional information in the document regarding the various project designs that had been considered by the applicant to allow the public to review the project's design process, and to provide for public input through the document re-circulation process".

18.

19.

18. Ms. Shearer-Nguyen is an employee of the Development Services Department. She does not have the authority to approve or deny the project. Her role is to analyze and disclose the potential impacts of the proposed project. Please see responses No. 6 and 14 above.
19. Please see response number 9.

The "new" MND also neglects to state that the appeal was granted pursuant to SDMC 112.0520(f) which states:

"the lower decision-makers decision to grant the entitlements, approval or City authorization shall be deemed vacated and the lower decision maker shall reconsider its environmental determination and its decision to grant the entitlements, approval or City authorization, in view of the action and where appropriate, any direction or instruction from the City Council."

In other words, the project's permits ("prior approvals") were rescinded by the City Council's granting of the appeal. Staff has not disclosed this or its implications in the MND.

The "new" MND again proposes the same, exact design of building, 39 feet high, with the same total office building encroachment into Mission Valley Plan designated open space--even though both the MND and permits for this were rejected.

**Please note:** While the "new" MND does contain alternatives, they are those previously rejected by city staff and/or the applicant/landowner. Feasible, reduced impacts alternatives are not in this MND. Therefore, City Council direction "to review the alternatives to reduce the impacts" has not been followed.

Rather, the same impacts are maintained as it is the exact project location and design--about 125 feet laterally up the steep slopes and 50 feet vertically higher than the Mission Valley Plan designated open space (roof to 200 foot elevation).

In a March 6, 2007 email to City project manager Anne Jarque, , Randy Berkman asked how this "new" MND complies with City Council direction. No reply has been received as of this date.

Thank you for your serious consideration and careful review of this latest MND on this parcel. Granting the building permit for this landowner will set a terrible precedent for future applications -- and "there goes our valley!"

Sincerely,

Ellen Shively  
Member, Appealants for the Sierra Club

City staff response(s) to Ellen Shively comment letter for  
Pacific Coast Office Building, Project No. 54384

20.

20. The effect of the Council's granting the environmental determination appeal on September 26, 2006 was the vacation of the prior Hearing Officer and Planning Commission approvals of the project. While there is no prohibition on including this information in the MND, it does not add to or change the analysis of the proposed project's impacts. The intent of SDMC 112.0520(F) is to allow the Planning Commission to re-review projects in their entirety, rather than a limited review of the Environmental Document only. In effect, the project will appear before the Planning Commission in exactly the same position as the first Planning Commission Hearing albeit with a modified MND. These are procedural issues only with no bearing on the environmental analysis, therefore a statement concerning the application of 112.0520(F) was not included with in the MND.

21.

21. The MND is not a project proposal, it is an analysis of the applicant's proposed project. The Council did not reject the MND -- it remanded the document back to the Planning Commission for their reconsideration of its adequacy. City Council did not review the discretionary permit, The Council's review was limited solely to the adequacy of the environmental document.

22.

22. Please see response No. 9.

23.

23. This comment is noted.

From: "Randy Berkman" <jrb223@hotmail.com>  
To: <eshearernguyen@sandiego.gov>  
Date: 4/4/2007 11:28:49 AM  
Subject: Pacific Coast Office Building 5th MND comments: why 5th MND should be withdrawn

City staff response(s) to Randy Berkman electronic mail comment letter for  
Pacific Coast Office Building, Project No. 54384

> From: jrb223@hotmail.com  
> To: dsdeas@sandiego.gov;  
> CC: maguire@sandiego.gov; sedwards@sandiego.gov; khaumann@sandiego.gov;  
jmadaffer@sandiego.gov; rts@sandiego.edu; bmalenschein@sandiego.gov;  
kevinfaulconer@sandiego.gov; pburnham@sandiego.gov; anthonyyoung@sandiego.gov;  
shill@sandiego.gov; toniatkins@sandiego.gov; benhueso@sandiego.gov; scottpeters@sandiego.gov;  
donnafrye@sandiego.gov; savewellands@cox.net; gailt@cts.com; tmullaneyellenshively@sbcglobal.net;  
terryweiner@sbcglobal.net; jelliot@pacbell.net; davidapott@aol.com; peugh@cox.net;  
jimbellob@hotmail.com; tmullaney@aol.com  
> Subject: Pacific Coast Office Building 5th MND comments: why 5th MND should be withdrawn  
> Date: Wed, 4 Apr 2007 11:25:29 -0700  
>  
>  
> City staff:  
>  
> Below are the first 2 pages of comments on the 5th MND. Full comments are attached to this email. To  
observe the City Council direction (stated as part of the Appeal of the MND granted 9-28-06) "to review the  
alternatives to reduce the impacts" (from City Council Minutes webpage), and page 1 of the MND which  
mis-states this required by San Diego Municipal Code City Council direction, see:  
> <http://www.angelfire.com/wy/rvpp/pacificcoastofficebuilding.html>  
>  
> ATTENTION: ELIZABETH SHEARER-NGUYEN: PACIFIC COAST OFFICE BUILDING COMMENTS  
ON 5th MITIGATED NEGATIVE DECLARATION (MND) (by Randy Berkman; RVPP)  
>  
> 5th MND INVALID SINCE IT MIS-STATES CITY COUNCIL DIRECTION AND DOES NOT FOLLOW  
CITY COUNCIL DIRECTION "TO REVIEW THE ALTERNATIVES TO REDUCE THE IMPACTS." THIS  
DIRECTION MUST BE FOLLOWED PURSUANT TO THE CITY CODE UNDER WHICH THE APPEAL  
WAS GRANTED (112.0520(f)).  
>  
> 5th MND PROPOSES THE ALTERNATIVE REJECTED BY CITY COUNCIL WITHOUT DISCLOSING  
THIS TO THE PUBLIC. IMPACTS ARE MAINTAINED AND NOT REDUCED—CONTRARY TO CITY  
COUNCIL DIRECTION. 5th MND SHOULD THEREFORE BE WITHDRAWN FROM CONSIDERATION.  
ANY FUTURE CEQA DOCUMENT MUST FOLLOW CITY COUNCIL DIRECTION.  
>  
> Page 46 of the September 28, 2006 Minutes (Attachment 26) of the City Council meeting states the  
following regarding City Council action on the appeal of Sierra Club, San Diego, Audubon, San Diego,  
Mission Valley Community Council and River Valley Preservation Project:  
>  
> "MOTION BY FRYE TO GRANT THE APPEAL AND SET ASIDE THE  
ENVIRONMENTAL DETERMINATION (MITIGATED NEGATIVE DECLARATION) NO. 54384), REMAND  
THE MATTER TO THE PREVIOUS DECISION MAKER WITH DIRECTION TO REVIEW THE  
ALTERNATIVES TO REDUCE THE IMPACTS. DIRECT THE CITY ATTORNEY TO PREPARE  
> THE APPROPRIATE RESOLUTION PURSUANT TO SECTION 40 OF THE CITY CHARTER." (CAPS in

24. Per Mr. Berkman's message, the following comments provided were from the first two pages of  
his comment letter. Staff has responded to his comments, please refer to response nos. 25  
through 59.

24.

original). (Attachment 26)

> The above City Council direction "to review the alternatives to reduce the impacts" is not found in the "new" MND. Rather, in the second sentence in the "new" MND quote below, staff inserts their own language (re-writing the City Code to gain project approval). This turns the City Council direction upside down and negates City Council's authority to enforce CEQA (Pages 1, 4 of MND):

> "UPDATE:

> City Council granted the appeal and set aside the environmental determination and remanded the matter to the previous decision maker (the Planning Commission). In addition, City Council directed staff to provide additional information in the document regarding the various project designs that had been considered by the applicant to allow the public to review the project's design process, and to provide for public input through the document re-circulation process." (attachment 27)

> Such non-compliant re-writing of City Council direction makes the 5th MND invalid. Who is responsible for mis-stating this direction? Was any Councilmember consulted for complying with City Council direction?

> The 5th MND also neglects to state that the appeal was granted pursuant to SDMC 112.0520(f) which states:

> "the lower decision-makers decision to grant the entitlements, approval or City authorization shall be deemed vacated and the lower decision maker shall reconsider its environmental determination and its decision to grant the entitlements, approval or City authorization, in view of the action and where appropriate, any direction or instruction from the City Council." (Attachment 28).

> In other words, the project's permits ("prior approvals") were rescinded by the City Council's granting of the appeal. Staff has not disclosed this or its implications in the MND.

> The "new" MND proposes the same, exact design of building, 39 feet high, with the same total office building encroachment into Mission Valley Plan designated open space—even though both the MND and permits for this were rejected. While the "new" MND does contain alternatives, they are those previously rejected by city staff and/or the applicant/landowner (pp. 4-8; Figures 4-10). Feasible, reduced impacts alternatives are not in this MND. Therefore, City Council direction "to review the alternatives to reduce the impacts" has not been followed. Rather, the same impacts are maintained as it is the exact project location and design—about 125 feet laterally up the steep slopes and 50 feet vertically higher than the Mission Valley Plan designated open space (roof to 200 foot elevation).

> In a March 6, 2007 email to City project manager Anne Jarque, I asked how this "new" MND complies with City Council direction. No reply was received.

> Attorney Robert Simmons recently wrote the following in regards to this "new" MND:

> "there is a general rule of law—called "Res Adjudicata"—that would seem to apply. This rule prohibits a reconsideration of an issue that has already been ruled upon on its merits. You can find material, plus citations, on this doctrine in the latest issue of CALIFORNIA JURISPRUDENCE."

> Since staff has not followed City Council's direction "to review the alternatives to reduce

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> Your friends are close to you. Keep them that way.  
> <http://spaces.live.com/signup.aspx>

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City staff response(s) to Randy Berkman electronic mail comment letter for Pacific Coast Office Building, Project No. 54384

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It's tax season, make sure to follow these few simple tips  
<http://articles.moneycentral.msn.com/Taxes/PreparationTips/PreparationTips.aspx?cid=WLMartagline>

City staff response(s) to Randy Berkman electronic mail comment letter for .  
Pacific Coast Office Building, Project No. 54384

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ATTENTION: ELIZABETH SHEARER-NGUYEN: PACIFIC COAST  
OFFICE BUILDING COMMENTS ON 5th MITIGATED NEGATIVE  
DECLARATION (MND) (by Randy Berkman; RVPP)

5<sup>th</sup> MND INVALID SINCE IT MIS-STATES CITY  
COUNCIL DIRECTION AND DOES NOT FOLLOW CITY  
COUNCIL DIRECTION "TO REVIEW THE  
ALTERNATIVES TO REDUCE THE IMPACTS." THIS  
DIRECTION MUST BE FOLLOWED PURSUANT TO THE  
CITY CODE UNDER WHICH THE APPEAL WAS GRANTED  
(112.0520(f)).

5th MND PROPOSES THE ALTERNATIVE REJECTED BY  
CITY COUNCIL WITHOUT DISCLOSING THIS TO THE  
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"UPDATE:

City Council granted the appeal and set aside the environmental determination and  
remanded the matter to the previous decision maker (the Planning Commission). In

25. Please response No. 9.

25.

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Such non-compliant re-writing of City Council direction makes the 5th MND invalid. Who is responsible for mis-stating this direction? Was any Councilmember consulted for complying with City Council direction?

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"the lower decision-makers decision to grant the entitlements, approval or City authorization shall be deemed vacated and the lower decision maker shall reconsider its environmental determination and its decision to grant the entitlements, approval or City authorization, in view of the action and where appropriate, any direction or instruction from the City Council." (Attachment 28).

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26. Please see response No. 18.

27. Please see response No. 9.

28. It is unclear to staff how this comment relates to the adequacy of the environmental analysis of the proposed project, and staff is unable to respond to the comment.

Since staff has not followed City Council's direction "to review the alternatives to reduce the impacts," the MND is invalid and should be withdrawn.

1992 MVCP PLAN AMENDMENT PROTECTED THIS SPECIFIC PARCEL FROM DEVELOPMENT ABOVE THE 150 FOOT CONTOUR LINE. 1992 CITY MANAGER INFORMED CITY COUNCIL A REZONE WOULD NOT BE NECESSARY THEN SINCE SITES WERE ALREADY SEVERELY RESTRICTED FROM DEVELOPMENT. THIS COUNTERS DSD/APPLICANT ARGUMENT THAT CO ZONE "ENTITLES" DEVELOPMENT ABOVE 150 FOOT LINE. THIS INFORMATION WAS PROVIDED TO CITY STAFF IN OCTOBER, 2006, YET NOT DISCLOSED IN THE "NEW" MND.

In October, 2006, I emailed City project manager, Anne Jarque that I had uncovered new information about this land's history. This email was not answered. A prior Mission Valley Plan amendment (April 21, 1992) changed the Mission Valley Plan land use designation from Commercial -Office to Open Space for the Pacific Coast Office Building property (then owned by the Willenbergs). This particular land was one of 5 groups of parcels listed for change from Commercial designations to open space designation. This prior legislative act and intent of City Council for this particular property was not disclosed to public or decision makers in the 2005-06 environmental reviews of the project. Page 2 of the Planning Department Report (January 16, 1992) to the Planning Commission states:

**"BACKGROUND**

During the July, 1990 City Council hearings on the Mission Valley planned District Ordinance (PDO), the issue of hillside protection south of Interstate 8 (I-8) was discussed. The City Council voted to retain the R1-40000 zoning on five sites south of I-8 which are illustrated as Sites A through E on Attachment 1a. The council also directed the Planning Department to initiate a community plan amendment for keeping the slopes in open space. As proposed below, the Planning Department is proposing that a portion of Sites A through E [Pacific Coast lot is site D] and other hillside areas south of I-8 be re-designated to open space on the Mission Valley Plan Land Use Map."

Page 4 of the 1992 City Manager Report to City Council (and page 3 of the 1992 Planning Department Report) state:

"No rezones are proposed as part of the Planning Department's open space recommendation. Development on the remaining areas above the 150-foot contour level is already severely restricted by the Mission Valley Community Plan, Planned District Ordinance and Development Intensity District Ordinance. Thus, no rezones are considered necessary at this time." (Attachment 29, p. 4)

The intent of the unanimous 1992 City Council (and Planning Commission) was to protect this particular parcel from development above the 150 foot line. Why isn't this information in the MND? Since it was the clear intent of the 1992 City Council to protect

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**City staff response(s) to Randy Berkman electronic mail comment letter for Pacific Coast Office Building, Project No. 54384**

29. Please see response number 11.
30. The MND does not claim the applicant is "entitled" to the proposed development. The MND analyzes the potential environmental impacts of the proposal.
31. The redesignation of several southern hillside areas to open space as part of the April 21, 1992 City Council action identifies that only a portion of parcel 439-480-24, which is the subject property, was redesignated to open space. In the 1992 City Council action, the subject parcel was not designated in its entirety as open space. Only a portion of the subject site was designated open space as referenced in the attachments to R-279807, "Amendment to the Mission Valley Community Plan." The Mission Valley Community Plan states that no-large scale development should cut or grade, or extend above the 150' elevation contour on the southern slopes. Given that abutting parcels include development that is up to 71,000 sq. ft in floor area, and average 30,000 sq. ft., staff determined that the proposed structure of less than 10,000 sq. ft can be considered small-scale. In addition, the purpose and intent of the community plan policies regarding development limitations above the 150' contour is for the preservation of the valleys hillside areas. The community plan's objectives for hillside preservation are being met with 3.92 acres of the 4.94-acre site within a protected open space easement that is not proposed for development.

this parcel from development (above 150 foot line), it is even more clear now that it would take a new legislative act of City Council to allow building above the 150 foot line on this parcel. This shows conclusively that this proposal is Process 5/MVCP Amendment required.

HISTORY OF STAFF OMISSIONS OF PROJECT'S LEGAL CONFLICTS SHOW STAFF IS NOT OBJECTIVE REVIEWING THIS PROPOSAL. SUCH OMISSIONS PERSIST IN "NEW" MND. PROJECT HISTORY ALSO SHOWS HOW CEQA PROCESS WAS THWARTED

In November 2003, the applicant/landowner, Dr. Robert Pollack submitted a document to the City which asked if any deviations would be required as part of his building plans for this property. He wrote that an exception to the Mission Valley Planned District Ordinance (MVPDO) would be required for exceeding the 150 foot elevation restriction of the PDO (Attachment 30, p. 2). However, this was not disclosed in the Draft of first Final MND. WHY?

Eric Bowlby and Randy Berkman pointed out that the MND was false and misleading at the November 2, 2005 hearing—due to the omission of the aforementioned conflicts with the MVCP and PDO 150 foot elevation restrictions. Staff replied that the plan met an Exception to the PDO. The Hearing Officer continued the Hearing until January 18. He also instructed staff to re-circulate the CEQA document and review less damaging options; along with accurately describing the proposal's conflicts with the PDO and MVCP. The MND was revised without re-circulation for public comment and reissued January 3, 2006. The January 18 Hearing was canceled since City Attorney David Miller found that a Deviation from Environmentally Sensitive Lands Regulations was being proposed due to non-compliant retaining walls and that made this a Process 4 to be scheduled first at Planning Commission. After receiving letters from two landowner consultants and review by City soils expert, Mr. Miller issued a Legal Opinion that the retaining walls were not deviating from ESL regulations (serving as soil stabilization rather than erosion control) and authorized scheduling of a Process 3 Hearing as was the case in November, 2005. On January 3, 2006, the Normal Heights Planning Group voted 10-0 to oppose the project. The MND was revised for a second time without re-circulation for public comment and re-issued March 31. The revised MNDs added new discussions of land use and visual impacts. In May, 2006, the Mission Valley Community Council voted 6-0-1 to oppose the project. When the Mission Valley Unified Planning Group (MVUPG) approved the project in September, 2005, it had not been disclosed that a PDO Exception would be required as the applicant informed the City in November 2003. This troubling non-disclosure thwarted objective public review. For example, Gail Thompson, a member of MVUPG voted to approve the project in September, 2005. After he learned that the proposal was seeking an Exception to the PDO, he voted to Appeal the Hearing Officer approval at a May, 2006 meeting of MVUPG and spoke against the project at the City Council hearing. Similarly, Normal Heights residents learned of this conflict with the PDO in a December, 2005 READER

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32. Planning staff did make the comment, based on a conceptual development plan submitted as part of a Preliminary Review, that an amendment to the Mission Valley Community Plan would be required for development above the 150' contour line. With the applicant's formal project submittal, the application included a request for an exception to the Mission Valley PDO for development above the 150' contour. Upon refinement of the project plans, and review of a full submittal, the Planning Department determined that it could consider a project on the site without a community plan amendment. This is based in part on a previous discretionary approval by the City Council that determined the line between open space and development for this particular property. The MVPDO does allow deviations to developing above the 150' contour line under certain circumstances. In this case, the deviation seemed more appropriate than a community plan amendment that might establish exceptions that could apply elsewhere.

The MND contains an analysis of the proposed project's environmental impacts. It is not intended to be an exhaustive history of all communications and interim determinations that took place during the review process. Please see response No. 9 regarding the required contents of an MND.

33. These comments regarding the history of the permit process, the citations from the previous MND, and CEQA case law are noted.

34. At the May 2006 meeting of the Mission Valley Community Planning Committee, the planning group had as an agenda item the reconsideration of their vote on the proposed project. Given the fact that the project was on appeal to the Planning Commission at that time, the planning group felt it necessary to discuss the appeal issues, and perhaps revisit their original recommendation of approval on this project. The planning group has a project review sub-committee that earlier in the week had discussed the proposed project, the environmental document and the appeal issues. The opinion of the sub-committee was that there were no new issues that would warrant reconsideration of the project. The planning group went on to discuss that they believed the project issues had been well vetted throughout the review process, and the planning group felt they had done a thorough review of the proposed project, including consideration of the exception to the PDO. The planning group did not find it necessary to reconsider or revisit their vote on the proposed project, and let their original recommendation of approval stand.

article—rather than in the CEQA document (See Attachment 12, Page 3, letter from Dave Potter to Hearing Officer Teasley).

1. 1<sup>st</sup> Draft MND (September 2005) Reply #2 misleads when it states project "partially intrudes into open space" when TOTAL BUILDING IS PROPOSED IN DESIGNATED OPEN SPACE OF MISSION VALLEY COMMUNITY PLAN (MVCP). Reply 2b is also misleading "...allowing only a limited intrusion into the Open Space designation." Locating an entire building in MVCP open space would be a precedent and is clear evidence of a significant land use impact under City's CEQA thresholds for land use (Attachment 16). This surpasses threshold for EIR preparation. Can staff cite any building in San Diego built entirely within community plan designated open space? If so, please list the address and circumstances of its approval including date.
2. MND states that building below the MVCP and MVPDO 150 foot elevation restrictions would be "an unnecessary hardship on the ability to develop the land." However, a building below 150 line is feasible (Attachments 13, 14). The MND is inaccurate and misleading regarding this central issue.
3. MND Reply #2 states that the present version of plan "reduces impacts" compared to prior version. However, 2004 version was 20 feet vertically down-slope from current proposal—starting at base pad of 140 feet elevation rather than current 160 foot elevation (See Attachments 14, 23 for 2004 plan).
4. MND Page 1, states project is "2 story" when it is 3 levels, 39 feet high.
5. MND Reply #2a-g, included reasons that MVCP Amendment is allegedly not required. These were unauthorized, staff action to circumvent the MVCP open space protections. These invalid reasons made the MND fundamentally inadequate and misleading. The "new" MND does not deal with the MVCP Plan amendment issue even though landowner's attorney, Michael McDade acknowledged that building above the 150 foot elevation is "prohibited" by the MVCP open space protections (in spite of CO zone). (Attachment 7).
6. 1<sup>st</sup> Draft MND Reply #2 and Reply #3 were false and misleading. Both replies suggest that the proposal is consistent with the land use designation of the MVCP. At the June 15 Planning Commission Hearing, staff acknowledged for the first time that the entire building would be in MVCP open space.
7. City Reply 2c stated that grading "minimally disturbs the natural terrain." The truth is that 6300 cubic yards (630 dump truck loads of steep hillside containing endangered Coastal Sage Scrub (CSS)) would be excavated—7590 cubic yards/acre. Pursuant to the 1978 EIR for a similar sized office building on the same site (never built), this amount exceeds the 6000 cubic yards/graded acre threshold which is the HIGHEST LEVEL OF IMPACT (Attachment 4). This impact also triggers an EIR as it conflicts with environmental objectives of the MVCP.
8. Conflicts with environmental objectives/open space of MVCP are further evidence of land use impacts pursuant to the City's CEQA Significance Thresholds.
9. Staff incorrectly used City's 2004 DRAFT Significance Thresholds for review of Land Use impacts (conflicts with MVCP environmental objectives, land use designation "may" be considered significant rather than "will" be considered significant as stated in

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City staff response(s) to Randy Berkman comment letter for  
Pacific Coast Office Building, Project No. 54384

35. The subject property is split designated, "Commercial-Office" and "Open space." With the approval of a PCD in 1977, the project approval included a corresponding rezone of a development footprint, 1.08 acres, to "Commercial-Office." The City Council approval of the PCD also included the establishment of an open space easement on the remaining 3.8 acres of the site, further memorializing the line between open space and development. When the Mission Valley Planned District Ordinance was established in 1990, the rezone of the site from CO to MV-CO used the same boundary, seemingly acknowledging that boundary for development. With these actions, there appears to have been an expectation of development on that portion of the site zoned for Commercial Office, which is what the applicant is proposing. The proposed development does not conflict with the community plan. The project proposed is within the limits established for development, outside of the open space easement, and within the area zoned for Commercial Office development. In addition, the purpose and intent of the community plan policies regarding plan designated open space is for the preservation of the valleys hillside areas. The community plan's objectives for hillside preservation are being met with 3.92 acres of the 4.94-acre site within a protected open space easement that is not proposed for development.
36. The site constraints of the 150' contour result in a narrow portion of land that measures 20 feet in width by 285' in length leading to a triangular portion that measures approximately 160' by 60 feet. The minimum drive aisles and setbacks required would limit the area for development even further. On an individual project basis, the Mission Valley Planned District Ordinance allows for the criteria of the planned district to be increased or decreased when the following is applicable: due to special conditions or exceptional characteristics of the property, or of its location or surroundings, strict interpretation of the criteria of the planned district would result in unusual difficulties or unnecessary hardship or would be inconsistent with the general purpose of the planned district. Due to the topography of the site, limiting the development area of the property to below the 150 foot contour line would present an unnecessary hardship on the ability to develop the land. The purpose and intent of the community plan policies regarding development limitations above the 150' contour is for the preservation of the valleys hillside areas. The community plan's objectives for hillside preservation are being met with 3.92 acres of the 4.94-acre site within a protected open space easement that is not proposed for development.
37. These comments regarding the history of the permit process, the citations from the previous MND, and CEQA case law are noted.

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38. The proposed project is within the limits established for development by the previous City Council action in 1977, and outside of the open space easement. The Mission Valley Community Plan states that no-large scale development should cut or grade, or extend above the 150' elevation contour on the southern slopes. Given that abutting parcels include development that is up to 71,000 sq. ft in floor area, and average 30,000 sq. ft., staff determined that the proposed structure of less than 10,000 sq. ft can be considered small-scale. Also, the 1992 amendments to the Mission valley Community Plan that resulted in redesignated some southern hillside areas to open space identifies that only a portion of the subject site was redesignated to open space, not the whole parcel in its entirety. In addition, the purpose and intent of the community plan policies regarding development limitations above the 150' contour is for the preservation of the valleys hillside areas. The community plan's objectives for hillside preservation are being met with 3.92 acres of the 4.94-acre site within a protected open space easement that is not proposed for development. Therefore, a community plan amendment is not required.
39. The subject property is split-designated, "Commercial-Office" and "Open Space", with the "Open Space" line at the 150' contour. A portion of the project is within plan-designated open space, but outside of the open space easement that had been set aside with the previous City Council action in 1977. The previous City Council action established a footprint for development of the site, and put the remainder of the property within an open space easement. The project proposed is within the limits established for development by the 1977 City Council action, and outside of the open space easement. When the Mission Valley Planned District Ordinance was established in 1990, the rezone of the site from CO to MV-CO used the same boundary, seemingly acknowledging that boundary for development. With these actions, there appears to have been an expectation of development on that portion of the site zoned for commercial/office - which is what the applicant is proposing. The proposed development does not conflict with the community plan. The project proposed is within the limits established for development, outside of the open space easement, and within the area zoned for Commercial Office development. In addition, the purpose and intent of the community plan policies regarding development limitations above the 150' contour is for the preservation of the valleys hillside areas. The community plan's objectives for hillside preservation are being met with 3.92 acres of the 4.94-acre site within a protected open space easement that is not proposed for development.
40. These comments regarding the history of the permit process, the citations from the previous MND, and CEQA case law are noted.

the prior City CEQA Thresholds (Attachment 16). Under CEQA Section 15067.4(b), the thresholds used in CEQA reviews "must be adopted by resolution, ordinance, rule or regulation"; and have not been. Also, under CEQA, if there is lack of clarity interpreting CEQA language, the interpretation which affords the greatest environmental protection is to be utilized. Staff repeatedly ignores this CEQA requirement. (See: CEQA must be interpreted "to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." (quoting Friends of Mammoth v. County of Supervisors (1972) 8 Cal. 3d 247, 259)).

10. 1<sup>st</sup> MND Reply #4 was inaccurate and misleading "...design is consistent with ESL and MVPDO regulations." ESL regulations require consistency with Land Development Manual steep hillsides guidelines. Land Development Manual requires "minimized use" of retaining walls. This is not accomplished since nine retaining walls would be over 1600 feet long. Also, the entire building would be above the 150 foot line of the MVPDO.

11. The fifth reason in support of no MVCP Amendment is "Approximately 80% of the parcel is in an open space easement." Again, this is irrelevant to the project exceeding the MVCP and SDMC 150 foot elevation limit. It is relevant to note that forming the open space easement was "mitigation" for the 1978 project. However, even with that mitigation, the Planning Department found the impacts to the open space zone above 150 feet--would still be unmitigated (See: Attachment 5). Also, as previously stated, the Open Space Easement will likely be permanently impacted for brush management/fire prevention. One half of the CSS would be removed from Zone 2; and all CSS removed from Zone 1. The remainder will have to be regularly pruned from heights of 4 feet or more to a height of six inches.

Also, the up-slope extension of Scheidler Way is not shown on MVCP diagrams or referred to in the text. Extending a road into steep slopes/Coastal Sage Scrub/designated open space is a clear trigger of a land use impact under the City's CEQA thresholds for Land Use (See: Attachment 16).

**LACK OF DISCLOSURE OF CONFLICTS WITH ENVIRONMENTAL REGULATIONS MAKES MND FUNDAMENTALLY MISLEADING AND INADEQUATE; OTHER REASONS EIR REQUIRED**

1. Under CEQA, conflicts with environmental laws are evidence of significant impacts (See CEQA case: Protect the Historic Amador Waterways v. Amador Water Agency, 116 Cal. App. 4th 1099 (2004)).

"Such thresholds can be drawn from existing environmental standards, such as other statutes or regulations. "[A] lead agency's use of existing environmental standards in determining the significance of a project's environmental impacts is an effective means of promoting consistency in significance determinations and integrating CEQA environmental review activities with other environmental program planning and regulation." (Communities for a Better Environment v. California Resources Agency, supra, 103 Cal.App.4th at p. 111.). This proposal conflicts with City's Land Development Manual, P. 52 (Attachment 19) which requires "minimized use" of

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41. The Land Development Manual Steep Hillside Guidelines does not require the "minimized use of retaining walls." The Design Standards for commercial development state that retaining walls could be used in three ways. First, they can be incorporated into the design of the structure so that they become part of the structure. Second, if retaining walls are proposed adjacent to open space, they shall be broken into multiple stepped walls. Third, gravity (crib) walls can be used, regardless of height, provided that landscaping and irrigation are provided.  
  
The project complies with all three, incorporating retaining walls into the structure, designing a system of stepped walls, and landscaping and irrigating crib walls.
  42. These comments regarding the history of the permit process, the citations from the previous MND, and CEQA case law are noted.
  43. Scheidler Way is a local street, and typically local streets are often not shown as part of a community plan's Circulation Element street classification system.
  44. These comments regarding the history of the permit process, the citations from the previous MND, and CEQA case law are noted.

retaining walls. This conflict was not disclosed or reviewed in the MNDs—making the MND misleading and inadequate. Project proposes nine retaining walls over 1600 feet total length—probably the longest private use of such walls in city history. Conflict with this steep hillside regulatory standard is evidence of significant impacts to land use, public safety, and visual quality.

2. Alternative Compliance (deletion of) brush management (as proposed May 31, 2006/4<sup>th</sup> MND revision; and the current, 5<sup>th</sup> edition of MND) is not allowed according to the Land Development Manual (Attachment 18). Conflict with this regulatory standard is evidence that brush management impacts are “reasonably foreseeable” and must be reviewed in an EIR since a CSS mitigation area/Open Space Easement is likely to be impacted after fire staff declares “imminent fire hazard” during dry season. (Attachment 1).

3. Findings of Planning Department, unanimous Planning Commission for 1978 similar sized office building on same site are clear evidence of unmitigated impacts as an EIR was done/Notice of Determination filed with “significant effect on the environment.” This prior review was objective and recognized the precedent nature of opening the higher south slopes of Mission Valley for development. Opening the higher south slopes to development triggers a Mandatory Finding of Significance/EIR.

4. Court recognized CEQA expert Dave Potter wrote that EIR is required (Attachment 13).

5. Conflicts with MVPDO: “Development, including road construction above the 150-foot contour line shall not occur.” (Mission Valley Planned District Ordinance 103.213(A)).

6. MND states MVPDO Exception should be granted for invalid reasons. NONE of the 8800 square feet of land below the 150 foot contour line is proposed to be used for the building itself! The 2004 plan did plan to use land below 150 foot line.

7. Additional Development Permit Findings for Environmentally Sensitive Lands (ESL) Conflicts:

A. “minimum disturbance to ESL.” Reduced Impacts Option over smaller footprint (Attachments 13, 14) shows proposal is not consistent with this required by Code Finding. This is evidence of significant impacts to land use and CSS. Issue not reviewed in MND makes MND inadequate.

8. “The proposed development will minimize the alteration of natural landforms....” The proposal is inconsistent with this required by Code Finding—evidence of significant impacts to land use and CSS. This is evidence this is Process 4 on these issues (since deviations from ESL regulations are implicit)—and these conflicts with Codes for correct Process (3,4,5) have not been addressed in the MND.

1. The MVPDO 103.2101 requires that the proposal be consistent with the community plan. City Code 126.0504(a)(1) requires that the applicable land use plan is not “adversely effected.” Since the whole building would be in MVCP open space, it is not consistent with the MVCP; and the open space protections of the MVCP would be adversely effected. This is evidence of significant land use, CSS and public safety impacts.

2. City Code 126.0504(b)(4) refers to MSCP which requires projects to be consistent with the land use designation of the community Plan. This is not consistent with

45. Refer to response number 36.

46. The project minimizes the disturbance to environmentally sensitive lands and the alteration of natural landforms by incorporating the Steep Hillside Guidelines for commercial development. The site improvements are designed and sited such that the development areas are located at varying elevations. The design, size, and placement takes into consideration the location of surrounding developments and is sited and orientated in order to create a view corridor to the hillside and open space. The structure is stepped to follow the natural line of existing topography, and is set into the hillside to blend the structure into the site. The structure is articulated, providing offsetting planes, varying roof pitches and architectural details to further blend the structure into the site and reduce bulk and scale. Split level driveways lead to separate parking areas instead of one large parking lot. Parking areas are both incorporated into the structure for tuck-under parking, and are set back from the hillside and buffered with berms and landscaping. Rather than one type of retaining wall, various types of retaining walls are utilized. They are incorporated into the structure, have varying heights, are stepped, and are landscaped.

47. These comments regarding the history of the permit process, the citations from the previous MND, and CEQA case law are noted.

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MSCP since it is proposed entirely in designated open space. The conflict with this code is evidence of significant land use, public safety, CSS, visual quality, and cumulative/precedent setting impacts of opening the higher south slopes to building.  
3. City Code 126.0504(b)(1) requires "minimum disturbance" to ESL." 126.0504(b)(2) requires proposals "minimize alteration of the natural landforms." Conflicts with these codes are described in these comments and are evidence of significant impacts to steep hillsides, CSS, land use, visual quality, and cumulative/precedent setting impacts. That these ESL conflicts were not reviewed in the MND or subjected to CEQA required public comment—makes the MND fundamentally inadequate and misleading.

ENTIRE BUILDING PROPOSED IN DESIGNATED OPEN SPACE IS SIGNIFICANT LAND USE IMPACT PURSUANT TO CITY'S CEQA SIGNIFICANCE DETERMINATION THRESHOLDS. THIS UNMITIGATED IMPACT IS CLEAR TRIGGER OF EIR REQUIREMENT

"Development oriented toward the valley and accessed by roads from the Valley floor should not extend above the 150-foot elevation contour." (Mission Valley Community Plan (MVCP); Attachment 7, Page 3))

Further evidence that the proposal conflicts with the MVCP open space land use designation: is seen in a 2004 letter from landowner attorney, J. Michael McDade:

"The MVCP Open Space Plan, which was adopted in 1985, protects hillsides from ANY (CAPS ADDED) development above the 150-foot contour line...." (Attachment 7, Page 1)

Mr. McDade's letter is also persuasive evidence that this proposal is a significant land use impact.

Development Services staff also made written comments that such a proposal above the 150 foot elevation line conflicts with the MVCP. This conflict again is evidence of a land use impact/EIR requirement. Ironically, this prior plan was proposed 20 feet LOWER vertically down-slope. The current proposal would have even more impacts since it would be 20 feet HIGHER vertically up-slope. Staff was requiring a MVCP Amendment for a lower/less visually intrusive option.

A "Cycle Issues" Report section dated 1/30/04, written by Renee Mezo, states:

"(Process 5 due to Plan Amendment- See Long Range comments, p.8)"

"The Mission Valley Community Plan states that hillsides above the 150 foot contour should be designated open space and that hillsides below the 150 foot contour should be low intensity development. A plan amendment would be required to develop above the 150 foot contour." (City Planner John Wilhoit)

(The 2 aforementioned pages of the Cycle Issues Report are Attachment 8).

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- 48. Refer to response number 46.
- 49. This comment has been noted.
- 50. These comments regarding the history of the permit process, the citations from the previous MND, and CEQA case law are noted.
- 51. Refer to response number 38.
- 52. Refer to response number 38.
- 53. Planning staff did make the comment, based on a conceptual development plan submitted as part of a Preliminary Review, that an amendment to the Mission Valley Community Plan would be required for development above the 150' contour line. With the applicant's formal project submittal, the application included a request for an exception to the Mission Valley PDO for development above the 150' contour. Upon refinement of the project plans, and review of a full submittal, the Planning Department determined that it could consider a project on the site without a community plan amendment. This is based in part on a previous discretionary approval by the City Council that determined the line between open space and development for this particular property. The MVPDO does allow deviations to developing above the 150' contour line under certain circumstances. In this case, the deviation seemed more appropriate than a community plan amendment that might establish exceptions that could apply elsewhere. The Mission Valley Community Plan states that no-large scale development should cut or grade, or extend above the 150' elevation contour on the southern slopes. Given that abutting parcels include development that is up to 71,000 sq. ft in floor area, and average 30,000 sq. ft., staff determined that the proposed structure of less than 10,000 sq. ft can be considered small-scale. Also, the 1992 amendments to the Mission valley Community Plan that resulted in redesignated some southern hillside areas to open space identifies that only a portion of the subject site was redesignated to open space, not the whole parcel in its entirety. The purpose and intent of the community plan policies regarding development limitations above the 150' contour is for the preservation of the valleys hillside areas. The community plan's objectives for hillside preservation are being met with 3.92 acres of the 4.94-acre site within a protected open space easement that is not proposed for development. Therefore, a community plan amendment is not required.

The City's DRAFT CEQA significance determination thresholds (2004) were incorrectly used by staff in review of the MND's Land Use impacts. CEQA Section 15067.4(b), clearly states that CEQA thresholds must be adopted by resolution, ordinance, rule or regulation to be utilized in CEQA review:

"Thresholds of significance to be adopted for general use as part of the lead agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence."

The 2004 DRAFT Thresholds have not been adopted and so are not to be used in CEQA reviews. These DRAFT Thresholds state: "The following may be considered significant land use impacts: 1. Inconsistency/conflict with the environmental goals, objectives, or guidelines of a community or general plan. 4. Development or conversion of general plan or community plan designated open space or prime farmland to a more intensive use." The prior CEQA thresholds are applicable. The prior thresholds for Land Use Impacts assessment state the same WITH ONE IMPORTANT DIFFERENCE: "will be considered significant land use impact" rather than "may be considered significant land use impacts." If there is any lack of clarity in interpreting CEQA language, the interpretation which affords the greatest environmental protection is to be utilized. This proposal's entire office building encroachment into MVCP designated open space READILY MEETS EITHER THRESHOLD and triggers an EIR. The base pad is about 160 foot elevation, grading extends to about 190 feet, and the building's roof to 200 feet, with retaining walls up-slope.

LAND USE IMPACTS DUE TO EXTENSION OF SCHEIDLER WAY INTO  
MVCP OPEN SPACE

Extension of Scheidler Way into MVCP open space is further clear evidence that a conflict with the MVCP open space land use designation occurs. Staff has written (January 11, 2006 Report to Hearing Officer) "The City also accepted the dedication of the narrow panhandle portion of the parcel for a street (Scheidler Way) to provide vehicular access to the subject parcel and also to properties located adjacent to the north and west, Attachment 4." The "Attachment 4" of the January 11 staff report referred to is a 1961 Nagel Tract Map. It and the MVCP do not show the currently proposed, up-slope (about 35 feet) extension of Scheidler Way. Extension of Scheidler Way up-slope into designated open space. This is a land use impact pursuant to the city's CEQA Significance Determination Thresholds (Attachment 16) since it conflicts with the open space land use designation of the community plan and results in other impacts such as habitat loss.

MORE EVIDENCE OF SIGNIFICANT UNMITIGATED LAND USE IMPACTS  
TRIGGERS EIR: 630 DUMP TRUCK LOADS OF SOIL CONTAINING  
ENDANGERED COASTAL SAGE SCRUB IS NOT "GRADING [WHICH] ONLY  
MINIMALLY DISTURBS THE NATURAL TERRAIN" AS STATED IN THE

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54. These comments regarding the history of the permit process, the citations from the previous MND, and CEQA case law are noted.

MND. DOES STAFF MAINTAIN THAT THIS QUANTITY OF FILL IS A "MINIMAL DISTURBANCE" OF NATURAL TERRAIN?!

One standard dump truck holds 10 cubic yards of soil. "400 cubic yards weighs one million pounds." (See: <http://www-formal.stanford.edu/jmc/progress/untried.html>). The MND states "approximately .83 acre would be graded. Earthwork quantities associated with the site grading are estimated at approximately 6,300 cubic yards cut and 2,600 cubic yards of fill with an export of 3,700 yards." (Initial Study, p. 2), with cut depths of approximately 23 feet." (P. 7, Initial Study). 6300 cubic yards divided by 10 cubic yards per dump truck = 630 dump trucks filled with soil. Yet the 1<sup>st</sup> FMND (Reply #2c states that "Grading only minimally disturbs the natural terrain." The MVCP lists four things a plan can do to help accomplish such "minimal disturbance of natural terrain" such as adopting buildings and parking areas to terrain, replanting with native, drought resistant vegetation. While the proposal does attempt to do some of this, one cannot deny that the excavation of 630 dump truck loads of soil creating a 23 foot deep crater—is far from "minimal disturbance of natural terrain." Since 400 cubic yards of soil weighs a million pounds, the 6300 cubic yards proposed for excavation, would weight 15.75 million pounds (6300 divided by 400 = 15.75 multiplied by 1 million)—again, far from minimally disturbing the natural terrain. In this sense, the plan is significantly inconsistent with the MVCP. Further evidence of the severity of the impact is listed in the 1977 EIR for a similar sized office building on this site. That EIR stated that grading in excess of 6,000 cubic yards/acre would be the highest category of impact (See Attachment 4). The present proposal calls for 7,590 cubic yards/graded acre of excavation (6300 divided by .83 acre graded = 7,590 cubic yards/graded acre). The 1977 plan called for 5555 cubic yards/graded acre (6000 cubic yards/1.08 acre=5555cubic yards/graded acre). Significant unmitigated impacts trigger an EIR under CEQA. This issue is not addressed in any of the MNDs. This inconsistency/conflict with the "minimal grading" language of the MVCP guideline also triggers an EIR since it "will be considered a significant land use impact" according to the City's adopted CEQA thresholds. (Attachment 16)

MND CONFLICTS WITH MVCP OBJECTIVE/PROPOSALS REGARDING CSS AND UNSTABLE SOILS. THIS WILL BE CONSIDERED SIGNIFICANT LAND USE IMPACT PURSUANT TO CITY'S CEQA SIGNIFICANCE THRESHOLDS (Attachment 16 is City Land Use Thresholds of Significance)

The MVCP states:

**"OBJECTIVE**

Preserve as open space those hillsides characterized by steep slopes or geological instability in order to control urban form, insure public safety, provide aesthetic enjoyment, and protect biological resources.

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"Designate the hillsides and canyons which have any of the following characteristics as open space in the community: a. contain rare or endangered species of vegetation or animal life. B. Contain unstable soils." (end of MVCP quote)

Coastal Sage Scrub (CSS) is the most endangered habitat in the continental United States according to the EIR for the East Mission LRT. .64 acres of CSS would be lost according to the 5<sup>th</sup> edition of MND. This does not count the "reasonably foreseeable" impacts to the open space easement from eventual brush management due to "imminent fire hazard" declaration of fire department. If the usual 100 foot buffer were required, unmitigated impacts to the open space easement would be over 1/2 acre. That this issue is not realistically addressed, makes the MND misleading and inadequate regarding reasonably foreseeable impacts which are required by the SDMC and Land Development Manual's brush management sections.

The MNDs do not describe the quality of the CSS. However, the 1978 EIR (P. 2) states:

"Presently the steep, undeveloped site is covered with mature chaparral and areas of coastal sage scrub, making up part of an extended zone of natural hillside on the south slopes of Mission Valley." Eric Bowiby, Sierra Club Canyon Coordinator, describes the CSS as "good quality."

CA Department of Fish and Game describes CSS:

"Diegan CSS is considered a sensitive habitat in and of itself, and supports approximately 100 species (plant and animal) considered endangered, threatened or rare by State and or Federal agencies. Information on its rarity, as one indicator of its sensitivity, range from 66% having been lost to urban development and agriculture to only 10% of the original CSS remaining in good condition (i.e., 90% of CSS in good condition lost)." (December 20, 2005 email from Elizabeth Lucas, CA Department of Fish & Game; Attachment 6). The EIR for the East Mission Valley LRT describes CSS as the most endangered habitat type in the continental United States. (Attachment 15).

The 1977 EIR found that the erosion potential of the soil onsite was "severe"—the highest level of impact (see Attachment 2).

The presence of CSS and unstable soils both are listed under MVCP protections/open space preservation. The proposed building is again inconsistent with these MVCP objectives. Again, this triggers an EIR due to land use impacts since such conflicts with MVCP environmental objectives "will be considered significant" (Attachment 16). This issue is not addressed in the MNDs and was not addressed by the Hearing Officer or the Planning Commission.

NINE RETAINING WALLS OVER 1/4 MILE LONG: THE LONGEST IN THE CITY? EVIDENCE OF VISUAL, LAND USE AND PUBLIC SAFETY IMPACTS

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The current (5<sup>th</sup> edition) MND does not state the total length of retaining walls. Why? Prior editions of the MND did state that the retaining walls were 1865 feet which was then reduced to 1601 feet total length.

Can staff name ANY private development in San Diego with retaining walls 1600 feet total length? If yes, please include the address and brief description of it. Can staff name any private development in San Diego with total retaining wall length of 1000 feet? If so, please include the address and brief description.

The Land Development Manual requires that the use of retaining walls be "minimized." (See Attachment 19). This conflict with a regulatory standard has not been reviewed in the MND—again making it inadequate. This issue was raised in prior appeals and never addressed by staff. A deviation from the SDMC is therefore required since the Code states that all steep hillside proposals shall comply with the Land Use Manual's guidelines. Due to this deviation from the Land Development guideline to "minimize" use of retaining walls, proposal would be Process 4 (though MVCP amendment issues makes it Process 5)

According to prior MND (January 2006), the proposal calls for 9 retaining walls with combined length of 1,601 linear feet. (retaining and Concrete Masonry Unit walls with a maximum height of 10 feet. (Initial Study, January 3, 2006 FMND.). Why isn't this total length in the "new" MND? The City's CEQA Significance Determination Thresholds state the following regarding potentially significant impacts of Development Features/Visual Quality:

"The project includes crib, retaining walls or noise walls greater than six feet in height and 50 feet in length with minimal landscape screening or berming where the walls would be visible to the public."

The proposed length of 1601 feet exceeds the 50 foot significance threshold by 1551 feet or 32 times! The height threshold of 6 feet is exceeded by 4 feet. While landscaping of these walls is mentioned in 5<sup>th</sup> MND, the prior MNDs color photographic rendering show 100% of the walls with no landscaping. The landscaping costs, labor and maintenance of walls over 1/4 mile long make it unlikely that such a project would maintain landscaping for the simple reason that it is too expensive. The 1/4 mile+ length of retaining walls—as high as 10 feet—suggesting a fortress on scenic steep hillsides — and the excavation of 630 dump truck loads of soil—nearly 4 times the City's significance threshold for visual impacts—triggers an EIR.

The temporary impact of a 23 foot crater is not addressed.

STAFF MIS-STATES CITY CEQA SIGNIFICANCE LANGUAGE FOR VISUAL IMPACTS IN REVISED MND (p. 21)

2,000 cubic yards/graded acre is generally considered a significant visual impact under the City's thresholds of significance. A smaller amount of grading may be significant in

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scenic areas such as this (See CEQA expert Dave Potter's letter: Attachment 13). This project proposes 6300 cubic yards of grading over .83 acre which equals 7590 cubic yards/graded acre. The MVCP and MVPDO established the 150 ft. contour line to protect visual quality/open space. Any development above 150 ft. line that also conflicts with the 2000 cubic yards/graded acre would compound the significance of the impact.

Staff misquotes the City's thresholds language to rationalize why this is not significant.

"However, the above conditions [such as excavation in excess of 2,000 cubic yards/graded acre] WOULD (INCORRECT WORD) not be considered significant if one or more of the following apply...(referring to alternative design features alleged by staff to offset any visual impacts).

The actual language of the CEQA City Significance Thresholds for Landform Alteration/Visual Quality states:

"However, the above conditions MAY (CORRECT WORD CAPITALIZED) not be considered significant if one or more of the following apply:"

The amount of grading is so in excess of the 2,000 cubic yard/graded acre significance threshold, that the "alternative design" aspect of the plan does not offset the severity of the visual impacts. In short, due to its proposed location higher up the south slopes than any building in the valley, it would "stick out like a sore thumb" and be visible from surrounding roads and freeway. Staff acknowledges "The building is designed to appear long and flat from the street and river view corridors..." (Resolution in support of Site Development Permit). Its visibility from the public street, Scheidler Way, would be particularly severe—yet staff ignores this.

#### REDUCED IMPACTS OPTIONS

2004 ARCHITECT'S DIAGRAMS SHOW HOW REDUCED IMPACT OPTION COULD BE ACCOMPLISHED AND IMPACTS TO DESIGNATED OPEN SPACE MINIMIZED: THIS REFUTES MND ASSERTION THAT CONSTRUCTION BELOW THE 150 FOOT LINE WOULD BE A HARDSHIP ON ABILITY TO DEVELOP THE LAND. Staff takes a grain of truth (that some minor encroachments above 150 would be required) and uses this to rationalize the maximum encroachment—immediately adjacent to the open space easement at the 200 foot elevation. This is ridiculous.

The proposal does not minimize impacts to designated open space as directed by Hearing officer Didion and City Attorney David Miller (November 2, 2005 Hearing; See Attachment 20; email from City Attorney David Miller "least deviation possible."). Rather, it proposes to extend about 125 feet laterally up-slope to the very edge of the Open Space Easement/ Coastal Sage Scrub mitigation area. And again, this alternative was rejected by City Council in 2006.

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The architect's diagram (Attachment 13) has a reduced impacts option superimposed on it. This diagram shows a 2004 version of the plan with first floor at the 140 foot elevation and "second level" at 154 foot elevation. A one story building with roof at 150 feet (compliant with PDO and MVCP) is feasible by digging down 4 feet to a 136 foot elevation base pad. Such a one story building could have about 5000 square feet with plenty of space for the required 20 car parking lot slightly above the 150 foot elevation line shown on the City diagram. If the applicant were to dig down about 20 feet so as to have a base pad at the 120 foot elevation, a 2 story building is feasible along with 37 car parking lot to the west. In contrast, the current plan calls for a base pad at 160 foot elevation with roof to 200 feet. It is relevant to note, that after City Planner John Wilhoit changed his mind and informed the applicant that no Mission Valley Plan Amendment would be required (See Attachments #8, 9) , the base pad was moved from 140 foot elevation to 160 foot elevation. Staff has referred to the present design--20 feet higher vertically up slope--as having "reduced impacts" compared to the prior design. (MND Replies to Comments, P.1). Insofar as the present plan would be 20 feet higher up-slope than the 2004 version, the assertion of "reduced impacts" is not valid.

According to scale diagrams and site visit measurements, there is about 42 feet between existing retaining wall bordering the property to the north and the existing barricade at the up-slope terminus of Scheidler Way. This would allow more than enough room for a 90 degree left turn into the property from the EXISTING Scheidler Way. This would require relocation of SDG&E and Pacific Bell utility equipment which presently obstruct such a lower entrance to the property. This lower access road/parking lot would minimize impacts to designated open space. What is clear upon visiting the site, is that such an access road could be built at a lower elevation than the adjacent parking lot to the west—which the 1977 map shows is between the 150 foot and 160 foot elevations. The current proposal MAXIMIZES upper slope encroachment—extending to the open space easement 200 foot elevation. It also proposes extending Scheidler Way up-slope. The reduced impacts option would reduce project footprint and impacts to Coastal Sage Scrub. The aforementioned access road would solve the alleged inaccessibility problems stated in landowner attorney Robert Vaachi's April 2006 Memo to the city. A pedestrian bridge (as mentioned in general in the MVCP) could access the far east part of the land below the 150 foot line—if the owner decided to include that in his building plans. While the above Reduced Impacts options information was included in the appeal to the City Council, staff did not include this option in the MND.

UNRESOLVED BRUSH MANGEMENT ISSUES: ARE BRUSH MANGEMENT IMPACTS TO THE OPEN SPACE EASEMENT IMPACTS FROM BRUSH MANAGEMENT REASONABLY FORESEEABLE UNDER CEQA? (SEE: Laurel Heights Improvement Assoc. v. Regents, 47 Cal.3d 376, 393-399). WOULD SUCH IMPACTS TO OPEN SPACE EASEMENT REQUIRE RE-DESIGN OF PROPOSAL/NEW CEQA PROCESS? UNPRECEDENTED ELIMINATION OF BRUSH MANGEMENT FOR THIS PROJECT?

See Attachment 18 from the Land Development Manual which states that "alternative compliance" (as proposed) is not available under the Municipal Code for brush

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management. In other words, fire department staff cannot re-write the law on this topic. That would require a legislative act of City Council.

Can city staff cite ANY such development built immediately adjacent to coastal sage scrub (built since brush management zones became required by law)? Such deletion of brush management clearing is evidence of a public safety impact under CEQA and shows how laws are being rewritten to get approval of this project.

Clearing and removal of Coastal Sage Scrub in the open space easement was planned though not disclosed in the MNDs. 1<sup>st</sup> MND Reply #1 states: "The open space easement is 3.89 acres. No development/encroachment is proposed within the open space easement." The San Diego Municipal Code defines "development" to include "clearing...managing brush..." (Chapter 11, Art. 3, Div. 1, Sec. 6). Diagram A2.0 (Attachment 1) tells a different story than the "no development/encroachment" statement of the MND—showing Fire Zones 1 and 2 extending uphill of the proposed building into the open space easement. The Zone 2 activity is described:

"...50% of plants over 18" in height shall be cut and cleared to a height of 6". Within Zone 2, all plants remaining after 50% are cut and cleared shall be pruned to reduce fuel loading in accordance with the Landscape standards in the Land development code. Zone 2 shall be maintained on a regular basis by pruning and thinning plants, controlling weeds and maintaining any temporary irrigation systems."

Since one half of the existing CSS would be removed (and any remaining plants are to be cut to 6 inches), an important protection against erosion would be permanently uprooted. Also, the soil is described as having the highest potential for erosion "severe" in the 1977 EIR for a similar sized office building which was never built (Attachment 2). This "new" erosion issue is not addressed in the MNDs.

Zone 1 Fire Protection, which also intrudes the Open Space Easement is described:

"These plants must be low fuel and fire resistive." This could be interpreted that CSS will be permanently removed from the Open Space Easement for Zone 1 fire protection also.

The Finding that the proposal would not have a significant impact and also not require a Mission Valley Plan Amendment is based in part on the assertion that "Approximately 80% of the parcel is within the open space easement...(City Reply 2b)." And that no development will occur there (Reply #1). The 1977 Map of the site (Attachment 3) states "Retain Natural Grade And Vegetation" in the open space easement area. The open space easement was the heart of "mitigation" for re-zoning part of the site to office use. Staff has repeatedly stated that no development would occur there. When it is reasonably foreseeable that part of the Open Space Easement/ mitigation for a prior plan on-site, is itself likely to be permanently impacted—this is further evidence of significant unmitigated impacts /EIR requirement.

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The Errata Sheet MND, (4<sup>th</sup> edition, May 31, 2006) discloses the following allegedly "new" mitigation to avoid fire hazards/public safety impacts:

"The entire structure would have one-hour fire rated construction; a one hour fire rated wall/parapet with no openings would be constructed along the southern elevation of the building; the roof would be non-combustible; and lastly, the entire structure would be equipped with a fire sprinkler system."

However, a June 6, 2006 email from Fire Department staff Bob Medan states: "This project is subject to all the new building construction requirements for projects adjacent to hazardous vegetation. That means the entire structure will be 1 hour construction, have a Class A roof, protected openings, etc." Therefore, it appears clear that no "new" mitigation for fire prevention was planned. It was already required by Code as Mr. Medan wrote. Deletion of brush management adjacent to "hazardous vegetation," represents the elimination of a public safety/fire prevention mitigation measure described in 3 prior MNDs and the prior Permit Resolution. It is also troubling that Fire Department staff has not replied to email asking whether locating the project about 125 feet higher (laterally) up the slope could pose a new fire threat to Normal Heights—from on-site hazards such as a discarded cigarette. Is there any empirical evidence showing that a 10 ft. retaining wall would eliminate dangers of up-slope fires? The MND states that a retaining wall with irrigated vegetation will act as a fire wall. However, it would only be 103 feet long (p. 9)—not long enough to protect Normal Heights from fires started by such on-site hazards as a tossed cigarette.

Removing brush management immediately adjacent to Coastal Sage Scrub appears to be unprecedented in San Diego. Fire staff Bob Medan and Mike Benoit were asked if they could name any such project in San Diego; as was Libby Lucas of Department of Fish and Game. None of them could name such a project. At the June 15 Hearing, Planning Commissioner Chase asked if this proposal would pose a new threat to other properties. She also asked if Fire staff had made a site visit. Mr. Medan replied that he had not made a site visit. Fire code (142.0412(k) allows the Fire Department to require brush management if they find an "imminent fire hazard" exists. Bob Medan was asked in an email to define "imminent fire hazard." He did not answer that question. This is troubling. Is it reasonably foreseeable that brush management in the Open Space Easement will eventually be required due to predictable fire hazards immediately adjacent to the building? The answer appears to be as predictable as dry weather in summertime San Diego. The fact that the Land Development Manual does not permit such alternative compliance for brush management adds to the assertion that the impacts of brush management to the Open Space Easement are reasonably foreseeable. Under CEQA, proposals cannot be segmented to offer the appearance of reduced impacts (Section 15165: "segmenting or piecemealing" not permitted). Staff has acknowledged that the Open Space Easement is for public, not private use—pursuant to the City Code; and that impacts to it, are not allowed. However, reasonably foreseeable impacts to the Open

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Space Easement must be reviewed in an EIR. This is another reason the MND is inadequate.

With this proposal, brush management impacts to the Open Space Easement would add about .6 acre to the development footprint of the property (see Attachment 1). This would result in a development footprint of 1.43 acres rather than .83 acres. This represents over 28% of the site (1.43 acres/4.88 =28+%). Even if ANY development were allowed in MVCP open space, the allowed encroachment is 20%—pursuant to ESL regulations—and acknowledged by staff report. This would trigger alternative compliance—which is not allowed in designated open space according to the LDM and 143.0137(d) of the Municipal Code. "Alternative compliance shall not be considered for lands that are designated open space in the applicable land use plan..." Again, conflicts with regulatory standards, are evidence of significant impacts under CEQA. These legal conflicts have not been reviewed—again making the MND inadequate.

The proposal appears to conflict with California Fire Code (Public Resources Code 4291) which requires a 100 foot fire zones buffer. This issue was not addressed by the Planning Commission. This CA brochure page is Attachment 17. This is evidence that impacts to the open space easement are reasonably foreseeable and therefore must be reviewed in an EIR. Again, when there are conflicts with "regulatory standards," this is evidence of an impact—in this case, a public safety impact.

EVIDENCE OF POTENTIAL CUMULATIVE IMPACTS IN THE VAACHI MEMO

This Memo was disclosed to the public for the first time at the April 19, 2006 hearing.

Landowner attorney Robert Vaachi's April 12-14 Memo to project Manager Anne Jarque states:

"Of the remaining lots with land above the 150-contour line, all but three have large portions of developable land above the 150-contour line and are fully developed below the 150-foot contour line." If this proposal is allowed above the 150 contour, other landowners will be financially encouraged to seek similar Exceptions to the PDO. His statement that all but three lots have "large portions of developable land above the 150-contour line" is especially foreboding for the future of the valley's steep slopes. It is relevant to note that this statement is inconsistent with Attorney McDade's letter which states "All but a tiny portion of the protected hillsides will continue to be preserved." The potentially major cumulative impacts of approving the project are not addressed in the MND; nor can such impacts be mitigated—evidence of the EIR requirement. The 1977 Planning Department also identified the likely major impacts of such a precedent encroachment higher up the slopes in the open space zone.

The Vaachi Memo was also used to assert that development below the 150 foot elevation is not feasible. However, this assertion was not made by an engineer or other construction expert. The Hearing officer did not ask the owner's consultants whether it was feasible to build below 150 foot elevation. A building below 150 feet elevation is

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feasible even if an access road/parking lot might minimally exceed 150 foot contour line (Attachment 13, 14).

1977 PLANNING DEPARTMENT AND PLANNING COMMISSION (6-0 VOTE)  
FOUND SIMILAR PLAN DETRIMENTAL TO PUBLIC WELFARE

In 1977, the City of San Diego Planning Department recommended DENIAL of the Permit for a nearly identical sized office building (Attachment 5; 3 pages):

"The Planning Department recommends DENIAL of the proposed project based on the belief that all of the necessary finding of fact cannot be met for granting approval...

1. The proposed use at this particular location would not be necessary or desirable to provide a service or facility contributing to the general well-being of the neighborhood, the community and the City.....
3. The development, would under the circumstances of this particular case, be detrimental to the health, safety and general welfare of persons living or working the area and injurious to property and improvements (existing or future) in the vicinity. The subject property is part of the steep southerly slope of Mission Valley covered with mature Chaparral and Coastal Sage Scrub. This property is part of a tier of natural hillside terrain existing along the south slope of Mission Valley ABOVE (caps added) existing office and commercial development....Approval of this development would establish a precedent for additional encroachment into the undisturbed tier of natural open space extending laterally along the entire south slope of Mission Valley.
4. The granting of this permit would adversely affect the Progress Guide and General Plan for the City of San Diego....The adopted General Plan designates this tier of natural hillside above existing commercial development for open space preservation. Approval of the subject development would be contrary to the General Plan. The Environmental Quality Division has reviewed the proposed development and determined that the project would have the following significant impact:  
  
For the proposed type of commercial project, on site disturbance of the hillside lot would be minimized with the proposed building placement, architectural design and landscaping. nevertheless, the project would entail construction on a visually significant natural site in the hillside overlay review zone. Such development...would establish a precedent for encroachment into an undisturbed tier of natural open space extending laterally along the south slope of Mission Valley....There are no measures evident which would reduce to insignificance the precedent for commercial development moving higher up the south slopes of Mission Valley. Although the proposed project utilizes only one-fourth of the large lot, it remains a significant new encroachment not only in terms of the office building itself, but more importantly in terms of future development expectations for this and adjoining properties arising from the rezoning of the entire 4.88 acre parcel to CO. Therefore, a substantial mitigation of the issue of the development precedent in a

City staff response(s) to Randy Berkman comment letter for  
Pacific Coast Office Building, Project No. 54384

- 55.
- The commentor is correct in stating that the Planning Commission recommended denial of a similarly-sized project in 1977, and that an EIR was prepared for the project, which stated that the development of the site would establish a precedent for encroachment into the natural open space, and that the encroachment could not be mitigated to below a level of significance.

However, according to the administrative record, the City Council approved the project and, pursuant to Resolution No. 219900 adopted on December 14, 1977, determined that the mitigation proposed by the applicant (locating the project on the lower portion of the property and granting the City an open space easement over the balance of the property, approximately three acres) would reduce the project's impacts to below a level of significance.

While the above two paragraphs may be of interest regarding the 1977 project proposal, EAS staff analyzed the currently proposed project on its own merits and in the context of current surrounding development and significance thresholds.

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natural area would be to limit CO zoning to that minimum lot necessary to contain the proposed office project, leaving the remaining area of the property in its existing R-1-1 Zone. A "Reduced Project Scope" alternative was considered. The EIR found: "Project which left an even greater part of the subject lot undisturbed would reduce the site specific impact of that project but would not alter the LARGER IMPACT OF SETTING THE PRECEDENT FOR DEVELOPMENT ENCROACHMENT ONTO AN UNDISTURBED TIER OF NATURAL HILLSIDE." (CAPS ADDED). This is clear evidence that the current proposal would open to development the now, MVCP protected slopes above the 150 foot contour line. This results in a Mandatory Finding of Significance/EIR requirement.

**MORE EVIDENCE OF EIR REQUIRED**

Proposing an entire office building in Mission Valley Designated Open Space above the 150 elevation restriction is an alarm bell for decision makers.

2006 City Council rejected this alternative proposed in an MND.

In 1977, Mesa Mortgage Company proposed a similar size office building ("10,000 square feet on the lower 1.08 acres of a 4.88 acre hillside lot"--1978 EIR: See Attachment 5) on the same site as the proposed Pacific Coast Office building. The City's Environmental Quality Division prepared an EIR for that project. To reduce impacts, a 1977 alternative is shown which extends to about 185 feet. The Pacific Coast proposal extends as high as 200 feet according to the 5<sup>th</sup> MND.

City staff found in the EIR "The Environmental Quality Division has determined that the proposed project would have the following significant impact which could be substantially mitigated as indicated below, ALTHOUGH NOT TO A LEVEL OF INSIGNIFICANCE." (CAPITALS added). Impact: For the proposed type of commercial project, on-site disturbance of the hillside lot would be minimized with the proposed building placement, architectural design and landscaping. Nevertheless, the project would entail construction of a visually significant natural site in the Hillside Review overlay zone. " The Notice of Determination was filed with a statement that a significant unmitigated effect would occur.

**THE MVCP AMENDMENT ISSUE IS INADEQUATELY ADDRESSED IN THE MND AND THE MVCP IS SERIOUSLY MIS-QUOTED**

A 2004 version of the proposal (Attachment 14 ) was 20 feet vertically further DOWN-SLOPE. Yet, the MND describes the current proposal as "reduces impacts." City Planner John Wilhoit wrote a "good news" email to consultant Kim Sheredy explaining why a MVCP was no longer being required—for the HIGHER UP-SLOPE CURRENT PLAN. (Attachment 9 , 1 page). Mr. Wilhoit's rationalizations are included in the MND city Replies 2a-g. These reasons are not persuasive because they are proposing to break the open space legal protections of the MVCP. The first reason given is that the proposal

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56. These comments regarding the details of the review process are noted. No comment on the adequacy of this MND is provided. Therefore, no response is provided.

is not "large scale." Even if true, this is irrelevant pursuant to the fact that the MVCP prohibits All development above the 150-foot elevation as acknowledged by landowner attorney and John Wilhoit in his Cycle Issues comment (Attachments 7, 8).

"Development oriented toward the valley and accessed by roads from the Valley floor should not extend above the 150-foot elevation contour." (P. 122, MVCP; See attachment 7).

The 5<sup>th</sup> MND (p. 24) again seriously mis-quotes the MVCP in this regard. The actual MVCP quote is:

"Large-scale development (commercial, office, or commercial-recreation) at the base of the slopes, should not cut or grade, nor extend above the 150- foot elevation contour on the southern slopes." (p. 124, MVCP; See attachment 7, p. 5).

The second reason is that "the development would be largely screened from public right of way by structures north of the property." Again, this is irrelevant even if it were true. And it is not. Staff acknowledges "The building is designed to appear long and flat from the street and river view corridors..." (Resolution in support of Site Development Permit, p. 6). From Scheidler Way, a public street, the impacts would be striking.

The third reason given is that "There is development abutting to the west that extends above the 150-contour into the designated open space." Again, even if true, this is irrelevant. This is validated (at least in 1978) in a Planning Department Report:

"This property is part of a tier of natural hillside terrain existing along the south slope of Mission Valley ABOVE (caps added) existing office and commercial development." Staff now states that the adjacent property has a parking lot and retaining walls up to 166 foot elevation. . However, even if true, this was built in 1975 according to staff research, and is NOT a building; and was built prior to 1985 MVCP restrictions (See: Memorandum from Bill Tripp to Robert Didion, Hearing Officer, January 11, 2006, p.3).

The fourth reason given is absurd: "Due to the open space easement, the project could not extend more than approximately 50 feet into the designated open space." This comment makes it sound like the Open Space intrusion is "no big deal" when if fact, the entire office building would be above the 150 foot elevation. Also, the plan extends horizontally about 125 feet horizontally up-slope according to scale diagrams.

WHY EXCEPTION TO THE MVPDO IS INVALID: WHERE IS THE OWNER HARDSHIP? LAND SPECULATION IS INAPPROPRIATE IN ENDANGERED HABITAT.

Quoting the 5<sup>th</sup> MND:

"However, the MVPDO provides additional language in 103.2104(d)(4) that

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allows for, on an individual project basis, the criteria of this planned district to be increased or decreased when one or more of the following situations is applicable: 1 due to special conditions, or exceptional characteristics of the property, or of its location or surroundings, strict interpretation of the criteria of the planned district would result in unusual difficulties or unnecessary hardship or would be inconsistent with the general purpose of the planned district; 2. A superior design can be achieved by altering the adopted standards; or 3. Conformance with the "Guidelines for Discretionary Review: necessitates deviations from adopted standards."

"As such due to the topography of the site, specifically regarding the restriction of development above the 150-foot contour line, limiting the development area of the property to below the 150-foot contour line (within a narrow area encompassing approximately 8811 square feet) would present an unnecessary hardship on the ability to develop the land. Therefore, the project was redesigned to be more consistent with the recommendations outline within the community plan and accordance with the MVPDO which tucks the rear of the building into the hillside and terraces the second story, thereby creating a roof garden and/or deck....."(pp.24-25 "new" MND).

The problems with this are: the alternative rejected by City Council does not use all of the 8811 sq. ft. below the 150 ft. contour line. It uses 5992 sq. ft. for driveway and NONE for the building! The appellants submitted 2 reduced Impacts options as part of the Appeals which fully utilized the 8811 sq. ft. below the 150 ft. line. Staff and landowner have ignored these. These reduced impacts options show that a 1 and 2 story option are feasible with roof at the 150 ft. contour line; and only parking lots and retaining walls minimally deviating to about the 160 ft. elevation (height of the just west parking lot retaining wall built before the MVCP, MVPDO limits). We see that as a true minimal deviation. IN CONTRAST, THE OWNER STARTS AT 160 FOOT ELEVATION WITH BASE OF BUILDING AND ROOF GOES TO 200 FT. ELEVATION. THIS IS A MAXIMUM ENCROACHMENT AND EXCEPTION FOR THIS SHOULD NOT BE GRANTED.

Also, the landowner bought this parcel for only \$250,000—pennies on the dollar for Mission Valley office land. The price paid reflects its development potential and the owner, a sophisticated real estate investor, was fully aware of the PDO restrictions on developing the land before he bought it (Attachment 30, p. 2). Is DSD concerned the owner may sue the City for so-called "deprivation of use of his land"? We believe such a suit would now be without merit for reasons stated throughout these comments.

ALTERNATIVES PREVIOUSLY REJECTED BY STAFF/OWNER

The prime community (and 1992, 2006 City Council) concerns have been exceeding the 150 foot line restrictions of the MVCP and MVPDO. Another prime concern is the loss of

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57. The author's comments regarding the type of design that could be accomplished below the 150-foot contour line are noted.

endangered CSS. While deviations are needed (retaining wall, parking above 150 foot line) to get the building's roof compliant at 150 foot-line, these deviations could be granted to allow some use of the land. For example, tuck under parking is a design guideline of the MVCP for steep hillsides. However, on such a steep site, it is not necessary to hold the owner to this IF he builds the building with roof compliant at 150 foot line. Adjacent buildings do not have tuck under parking. Also, tucking the building into the slope would not be needed if the building itself were compliant at 150 foot elevation.

"Half the building would be below the 150 foot contour line...The lower level building would have been at approximately 136 feet." (P. 6, 5<sup>th</sup> MND, describing 1<sup>st</sup> design submission). This shows that the applicant could get the entire building compliant at 150 foot line—simply by reducing the building's height to 1 story (and some minor digging down if needed). A 5000 square foot building is far beyond the area of most doctor's offices—which generally run less than 2000 square feet. A 5000 square foot building is more than reasonable use of such environmentally sensitive land. Also, the applicant could get 2 stories (10,000 sq. ft.) by further digging down as shown in Attachments 13, 14) and described in Reduced Impacts section of these comments.

The acknowledgment that the building (1<sup>st</sup> design) would have been at 136 foot elevation is welcome as it negates past staff assertions that the lowest level of site is "144 feet." Such mis-information was used to persuade decision makers to approve the project.

SUM

The 5<sup>th</sup> MND is invalid because it does not follow City Council direction "to review the alternatives to reduce the impacts." It should therefore be withdrawn. Staff mis-states the City Council direction by omitting any mention of "to reduce the impacts" (pp. 1,4)! The 5<sup>th</sup> MND re-proposes the same alternative rejected by City Council! This negates City Council authority to enforce CEQA and the SDMC which implements CEQA—under which the appeal was granted. City Council's rejection of the MND by granting the appeal—is authoritative evidence that an MND was not the correct document for this option—which is proposed yet again in the 5<sup>th</sup> edition of the "new" MND!

The MVCP and MVPDO restrict development above the 150 foot elevation—which is Designated Open Space in the MVCP. This 3 level, nearly 10,000 square foot building proposes a base pad at 160 feet, grading to 190 feet and roof to 200 feet. It would be 125 feet further up the slope and 50 feet vertically higher than allowed by the MVCP. This would set a precedent for other property owners to propose building above the 150 foot contour line—as found by Planning Department and Planning Commission in 1978. Such cumulative impacts trigger a Mandatory Finding of Significance under CEQA.

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58. Please see response No. 9.

59. During the ongoing review of the proposed project, EAS staff did not identify or receive any substantial evidence that the project would result in a significant environmental impact. In fact, the MND lists the mitigation measures (which the applicant agreed to implement) that would reduce the project impacts to below a level of significance. Staff acknowledges that the commentor's opinion is contrary to staff's conclusions.

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Damage to public input has already occurred with the Mission Valley Planning Group voting on a project they thought had no Exceptions to the PDO or conflicts with the MVCP. The MND, despite four revisions and currently in its 5<sup>th</sup> edition, still has false and misleading statements.

Substantial evidence shows significant unmitigated impacts to visual quality, land use, CSS, public safety, and cumulative impacts of this precedent setting proposal—easily surpassing the CEQA threshold for an EIR (one significant impact which may be unmitigated). Staff required an EIR for a similar sized office building in 1977 and found unmitigated impacts as described in the Notice of Determination.

A one story building below 150 foot elevation is feasible. A 2 story building with roof at 150 feet is feasible if excavation to a 120 foot base pad were done. Contrary to 1st MND City replies, a MVCP Amendment is required as acknowledged by the landowner's attorney and city staff due to the plan's exceeding the 150 foot elevation restriction. The up-slope extension of Scheidler Way is not mentioned in the MVCP—further evidence of significant land use impact/EIR requirement. Conflicts with the Land Development Manual (alternative compliance/deletion of brush management as proposed is not allowed; "minimized use" of retaining walls not accomplished) and Environmentally Sensitive Lands regulations have not been addressed in the MND as CEQA requires. Other environmental Code conflicts have not been reviewed in the MND. Under CEQA, if there is evidence in the record supporting a fair argument that a project may have a significant impact, the lead agency must prepare an Environmental Impact Report even though the record also contains contrary evidence of no significant effect. CEQA Guidelines § 15064(f)(1). This would enable review of feasible alternatives at the lowest part of the site—136 foot base rather than the 160 foot base still proposed in .

Attachment list

1. Diagram A2.0 showing brush management encroachments into Open Space Easement.
2. 1977 EIR erosion potential "severe"—highest impact.
3. 1977 EIR Elevation Map showing land elevations on-site and "Retain Existing Vegetation and Grade" in what is now called the open space easement (south of the building).
4. Grading impact highest level when in excess of 6000 cubic yards/graded acre (1977 EIR).
5. Planning Department recommends DENIAL of similar office building in 1977 (3 pages).
6. December 2005 email from Elizabeth Lucas, CA Department of Fish and Game.
7. June, 2004 landowner attorney letter requesting Mission Valley Plan Amendment (7 pages).
8. City Cycle Issues stating MVCP Amendment/Process 5 required (2 pages).
9. Good news email from city staff John Wilhoit to owner consultant Kim Sheredy.
10. April 28 email from Jim Peugh regarding Fire Zone 2 impacts on CSS.
11. Parcel Information Report describes visibility of land.
12. April 18, 2006 letter from Judy Elliot, Chair of Normal Heights Planning Committee to Hearing Officer (2 pages). April 14, 2006 letter from Dave Potter to Hearing Officer.
13. January, 2004 architect's diagram for earlier version of building showing first floor at 140 foot elevation and 2<sup>nd</sup> level at 154 foot elevation (with superimposed Reduced Impacts concept).
14. City diagram showing possible location of Reduced Impacts Option show in Attachment 13.
15. Page from EIR for East Mission Valley LRT describing CSS as endangered habitat type.
16. City of San Diego CEQA Significance Determination Thresholds for Land Use (2 pages).
17. "Why 100 Feet?" 1<sup>st</sup> page of California State brochure describing brush management requirements.

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Cont.

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18. Land Development Manual page stating that alternative compliance is not allowed under the Municipal Code for Brush Management.
19. Land Development Manual page stating that use of retaining walls is to be "minimized."
20. Email from City Attorney CEQA expert Mark Massara stating MND has "severe inadequacies."
21. Email from City Attorney David Miller: EIR, least deviation
22. No #22
23. Email from Gail Thompson, member of Mission Valley Unified Planning Group describing how he was misled by MND that did not disclose conflicts with MVCP and MVPDO.
24. No #24.
25. 2004 architect's drawing showing top of first level at 154 foot elevation.
26. City Council Minutes of September 26, 2006 stating City Council direction in granting appeal.
27. 2007 MND, p. 1 which mis-states City Council direction.
28. SDMC 112.0520, Code under which appeal was granted—vacating prior city approvals.
29. 1992 MVCP Amendment, City Manager Report to City Council: re-designating Pacific Coast lot (and others) open space (above 150 ft line).
30. City of San Diego Information Bulletin 513/Questionnaire, November, 2003 filled out by owner/applicant showing he was aware of legal conflict with MVPDO 150 ft. contour line. Page 2 lists the parcel # of lot: 439-480-24. This parcel # is listed in 1992 MVCP Amendment for lots being re-designated open space (See Attachment 29, p. 8).

City staff response(s) to Randy Berkman comment letter for  
Pacific Coast Office Building, Project No. 54384

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The Following Pages Are Attachments Submitted with the Randy Berkman  
Comment Letter

ATTENTION: ELIZABETH SHEARER-NGUYEN

ATTACHMENTS FOR PACIFIC COAST OFFICE BUILDING  
"NEW" MND

THE ATTACHMENTS ARE PART OF THE COMMENTS

THEY ARE NUMBERED 1-30 (NO #22 OR #24)

53 PAGES OF ATTACHMENTS (*not counting this page*)

PLEASE NOTE: THE COMMENTS WILL BE FAXED OR  
EMAILED PRIOR TO THE APRIL 4 DEADLINE.

*Randy Berkman*  
(RUPP)

*4-3-07*

RECEIVED

APR 03 2007

Development Services

*Page #'s requested in upper left  
corner of pages and  
are circled: ① ② etc.*



(3)

1977 EIR  
for same site  
Attach 2  
(1 page)

ANALYSIS OF IMPACTS

1. GEOLOGY AND SOILS

IMPACT SCORE

1. Risk Zone Rating: (includes faults, landslides, liquefaction) (see Seismic Safety Study Geotechnical Land Use Capability Map):

Rating	Small	Medium	Large
A (Nominal)	0	0	0
AB or B (Low)	0	0	0
AC, BC (variable)	2	2	2
C (moderate) or D (high)	3	3	3

2. Soil erodibility: (see Soil Survey - Book 11, pg. 32)

Rating	Small	Medium	Large
no rating	0	0	0
slight (as defined)	0	0	0
moderate by the	0	1	2
severe (Soil Survey)	2	3	3

3. Will the project preclude the extraction of construction material on the site in the future? (See Soil Survey, Book 11, pg. 13.)

no resource present	0	0	0
sand or gravel	0	0	1
decomposed granite	0	0	1

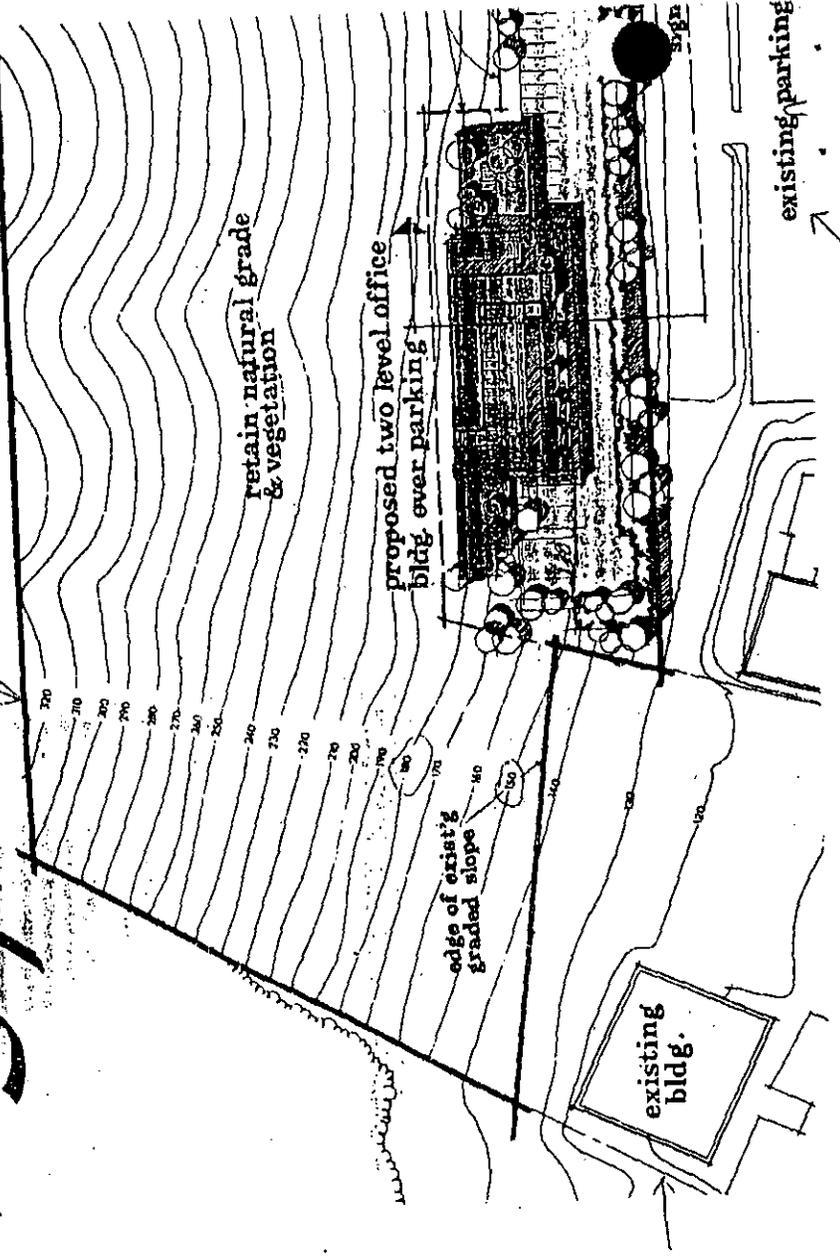
(4)

Attachment 3

1977 proposal

mitigate Seismic Effects

35



1/ (5)

Attach. 4  
(page)

Attach. 5, Page 1  
(3 pages)

4. Is the site rated as agricultural land (good or fair)? (See Soil Survey, Book V, pp. 80-83)				
a) not rated as agricultural	<input type="radio"/>	0	0	0
b) not used for agriculture and surrounded by urbanization	<input type="radio"/>	0	1	1
c) not used for agriculture but surrounded by agriculture and/or open space	<input type="radio"/>	1	1	2
d) currently or previously used for agriculture	<input type="radio"/>	1	2	3
5. Will construction take place within 50-foot setback of a coastal bluff or within an area extending inland to a line formed by a 20-degree angle from the base of the coastal bluff?				
no	<input type="radio"/>	0	0	0
yes	<input type="radio"/>	3	3	3
6. Will the project involve grading?				
a. Will grading occur (including import or export of material) in unique or unusual landforms, such as natural canyons, sandstone bluffs, rock outcrops or hillsides with slopes in excess of 25%?	<input checked="" type="radio"/>	no		
Volume of grading				
no grading in unique areas	<input type="radio"/>	0	0	0
0-3000 cu. yd./ac.	<input type="radio"/>	1	1	1
3-6,000 cu. yds./ac.*	<input checked="" type="radio"/>	2	2	2
greater than 6,000 + cu.yd./ac.	<input type="radio"/>	3	3	3

→ 7590 cubic yards per graded acre for 2006 plan  
 \* 6,535 cubic yards/acre for 1979 plan

# PLANNING REPORTS

CITY PLANNING DEPARTMENT - SAN DIEGO, CALIF. 92101

236-6480

July 7, 1977

**SUBJECT:** PLANNED COMMERCIAL DEVELOPMENT NO. 35. To construct and operate an office building of 10,000 sq. ft. on 1.18 acres in the R-1-40 (HR) Zone, proposed CO (HR) Zone. Located on the south side of Camino del Rio South, between I-15 and I-806. A portion of lot 1, Nagel Tract No. 2, Map No. 4727. Applicant: Mesa Mortgage Company. EQD No. 77-03-18P.

### BACKGROUND

This hearing, which was continued from the Planning Commission meeting of June 30, 1977, concerns a request for a Planned Commercial Development Permit to construct a 10,000 sq. ft., 3 1/2 story high office building on the south slope of Mission Valley. The subject property is located at the southerly terminus of Scheidler Way, a short stub street connecting to Camino del Rio South. The property is undeveloped, is covered with native Chapparel and Coastal Sage Scrub, and is steeply sloped, being a part of an extended zone of natural hillside on the south slope of Mission Valley. The property is west of I-15, overlooking I-8 and the San Diego Stadium. A row of CO zoned property, fronting on Camino del Rio South, and containing low rise office buildings, lies immediately below the subject lot. East and west of the subject site area are further reaches of property zoned R-1-40 which are also undeveloped and covered with native vegetation, forming a tier of natural hillside terrain. Beginning at the top of the subject lot, residential development in the R-1-5 zone extends southward on mesa peninsulas, emerging into the Normal Heights Community.

The adopted General Plan of the City of San Diego designates the subject property for open space preservation.

### RECOMMENDATION

The Planning Department recommends DENIAL of the proposed project based on the belief that all of the necessary findings of fact cannot be met for granting approval.

THESE RECOMMENDATIONS ARE BASED ON INFORMATION AVAILABLE AT THE TIME OF THIS REPORT.

**ANALYSIS**

The subject development proposes the construction of a 10,000 sq. ft. office building in multi levels stepping up the hillside. The lowest level of the structure, connected to Scheidler Way, would contain 34 parking spaces. Office area would be located in both the second level and a high ceiling third level, containing a mezzanine. Landscaping is to be provided along the front of each level of the building and around the sides of the building. Landscape materials would consist of: Lemon Gum Eucalyptus, Canary Island Pine, Indian Laurel, and Evergreen Pear Trees; Tobira Variegata, Lilly of the Nile, and Natal Plum Shrubs; Bougainvillea and Creeping Pig Vines; and Needle Point Ivy and lawn for ground cover.

The proposed Planned Commercial Development would cover only the southerly 1.18 acres of the total 4.88 acre hillside ownership at this location. The remainder of the site is to remain in the R-1-40 (HR) Zone. The applicant indicates that this undeveloped area could be dedicated as an open space easement.

The Planning Department recommends DENIAL of the subject Planned Commercial Development based upon the belief that all of the necessary Findings of Fact cannot be met for granting approval.

**FINDING OF FACT**

1. The proposed use at this particular location would not be necessary or desirable to provide a service or facility contributing to the general well-being of the neighborhood, the community and the City.

This project proposes the construction of 10,000 sq. ft. of additional office space in the Mission Valley area. The Planning Department believes that sufficient office space exists in Mission Valley to serve the needs of potential tenants within this complex and that, further, the Department believes that the amount of commercial office use in Mission Valley is exceeding that recommended by the adopted General Plan.

2. The development, would under the circumstances of this particular case, be detrimental to the health, safety and general welfare of persons living or working in the area and injurious to property and improvements (existing or future) in the vicinity.

The subject property is part of the steep southerly slope of Mission Valley covered with mature Chapparral and Coastal Sage Scrub. This property is part of a tier of natural hillside terrain existing along the south slope of Mission Valley above existing office and commercial development. The proposed office building would stand three stories above this natural hillside. The Planning Department believes that the native hillsides of the south Mission Valley slopes should be protected from the encroachment of office and commercial activity. Approval of this development would establish a precedent for additional encroachment into the the undisturbed tier of natural open space extending laterally along the entire south slope of Mission Valley.

3. All design criteria and minimum standards for planned commercial developments would be met.

The subject development would meet design criteria and minimum standards established for planned commercial developments and development within the CO Zone.

→ 4. The granting of this permit would adversely affect the progress guide and General Plan for the City of San Diego.

The Planning Department believes that an excessive amount of commercial office space is being constructed in the Mission Valley area. The use of this property for office development would exacerbate the existing situation. The adopted General Plan designates this tier of natural hillside above existing commercial development in Mission Valley for open space preservation. Approval of the subject development would be contrary to the General Plan.

The Environmental Quality Division has reviewed the proposed development and has determined that the project would have the following significant impact:

→ "For the proposed type of commercial project, on site disturbance of the hillside lot would be minimized with the proposed building placement, architectural design and landscaping. Nevertheless, the project would entail construction on a visually significant natural site in the hillside review overlay zone. Such development as well as the proposed rezoning of the entire sight to CO would establish a precedent for encroachment into an undisturbed tier of natural open space extending laterally along the south slope of Mission Valley."

→ A copy of the Environmental Impact Report prepared for this project is on file in the City Clerk's office and is available for public review.

ft. MSL, a significant extension of commercial encroachment into the designated open space hillside.

**Mitigation:** There are no measures evident which would reduce to insignificance the precedent for commercial development moving higher up the south slopes of Mission Valley in this Hillside Review area. Although the proposed project utilizes only one-fourth of the large lot, it remains a significant new encroachment not only in terms of the office building itself, but more importantly in terms of future development expectations for this and adjoining properties arising from the rezoning of the entire 4.88-acre parcel to CO.

Therefore, a substantial mitigation of the issue of development precedent in a natural area would be to limit CO zoning to that minimum lot necessary to contain the proposed office building project, leaving the remaining area of the subject property in its existing R-1-40 Zone. This mitigation would require a parcel map, but would not require further environmental processing beyond an amendment to this EIR.

#### B. OTHER IMPACTS

Other impact categories were considered in the Initial Study and found to have no significant impact on the project, nor would they be significantly affected by the project.

#### IV. PROJECT ALTERNATIVES

**Alternate Project:** Under existing R-1-40 zoning, up to 5 lots could be developed with single-family residences on the subject property. Such a development would utilize all of the lot instead of only 25% as with the proposed project, and would therefore be more disruptive to the hillside. Residential construction would be difficult if not impossible in any case because of the steepness of the subject property.

**Reduced Project Scope:** Projects which left an even greater part of the subject lot undisturbed would reduce the site-specific impact of that particular project, but would not alter the larger impact of setting the precedent for development encroachment onto an undisturbed tier of natural hillside.

**No Project:** This alternative would eliminate the environmental impact cited for the proposed project, but would likely be infeasible without a solution to the resulting economic impact on the property owner.



77-03-18  
PH 3:13  
SCHEDULE 1

## Environmental Impact Report

#77-03-18

**SUBJECT:** Mesa Mortgage Office Building. REZONE from R-1-40 to CO of 4.88 acres in the HILLSIDE REVIEW overlay zone for PLANNED COMMERCIAL DEVELOPMENT of a 10,000 sq. ft. office building and parking area. Located south of Camino del Rio South and west of I-15 at the end of Scheidler Way in Mission Valley (Lot 1, Nagel Tract 2, Map 4737). Applicant: Mesa Mortgage Company.

#### I. SUMMARY AND CONCLUSIONS

The Environmental Quality Division has determined that the proposed project would have the following significant impact which could be substantially mitigated as indicated below, although not to a level of insignificance.

**Impact:** For the proposed type of commercial project, on-site disturbance of the hillside lot would be minimized with the proposed building placement, architectural design and landscaping. Nevertheless, the project would entail construction on a visually significant natural site in the Hillside Review overlay zone. Such development as well as the proposed rezoning of the entire site to CO would establish a precedent for encroachment into an undisturbed tier of natural open space extending laterally along the south slope of Mission Valley.

**Mitigation:** A substantial mitigation of the issue of development precedent on the hillside would be to limit CO zoning to that minimum lot necessary to contain the proposed office building, leaving the remaining area of the subject property in its existing R-1-40 Zone. This mitigation would require filing of a parcel map.

#### II. PROJECT DESCRIPTION AND SETTING

Construction of a 10,000 sq. ft. office building is proposed on the lower 1.08 acres of a 4.88-acre hillside lot. The three-level building would be stair-stepped up the hillside, each level set back from the one below. The lowest level, connecting to Scheidler Way, would contain 25 parking spaces. Office accommodations would be located in both the second level and a high-ceilinged third level containing a mezzanine. Extensive landscaping would be placed along the front of each level and around the sides of the building. From a parking level elevation of 163 ft. MSL, the terraced structure

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12/20/05 1:52 PM

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From: Elizabeth Lucas <ELucas@dlp.ca.gov>  
Sent: Tuesday, December 20, 2005 1:19 PM  
To: <jb223@hotmail.com>  
Subject: Re: Diegan CSS questions

Hi Randy,  
Diegan CSS is considered a sensitive habitat type in and of itself, and supports approximately 100 species (plant and animal) considered endangered, threatened, or rare by State and/or Federal agencies. Information on its rarity, as one indicator of sensitivity, range from 66% having been lost to urban development and agriculture to only 10% of the original CSS remaining in good condition (i.e., 90% of CSS in good condition lost). Part of the difficulty in measuring the loss results from the subjective assessment of what degree of disturbance (e.g., invasive weed cover) constitutes a loss. It is among the most intensively human-affected (awkward term) vegetation types in the U.S. I would not say that it is the most endangered habitat type in the continental U.S. There are many wetland habitat types that are more endangered. How it compares to other endangered upland habitat types, I don't know.

I am sure that you know that the focus of the MSCP and the such NCCP programs in Southern California is CSS, the reason being that it supports so many sensitive species.

Hope this helps,  
Libby

>>> "Randy Berkman" <jb223@hotmail.com> 12/14/2005 9:37 AM >>>

Hi Libby, Is Diegan CSS considered an endangered, threatened, or rare species or set of species? I know it has some level of protection. In the EIR for the EMV LRT, it was described as the most endangered habitat in continental U.S. Does that correspond to your understanding? Do you know what US F&WS considers it?  
thanks, Randy

Attachments

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June 3, 2004

OF COUNSEL  
REBECCA MICHAEL  
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BARRY J. SCHULTZ

JERI L. CYSEFE  
ADMINISTRATOR

Mr. John Wilhoit  
Planning Department  
City of San Diego  
202 First Street, Fifth Floor  
San Diego, CA 92101

Re: Request to Initiate Mission Valley Community Plan Amendment  
APN 439-480-24-00, Scheidler Way

Dear Mr. Wilhoit:

Pursuant to recent discussions with you and other members of your department, we are writing you on behalf of our client, Pacific Coast Assets, LLC, to request the initiation of an amendment to the Mission Valley Community Plan (MVCP). Our client is the owner of the above-referenced vacant parcel on Scheidler Way, south of Camino Del Rio South between Interstate 15 and Interstate 805. He intends to propose the development of a two-story, 10,400 square foot medical and commercial office building on that site.

The parcel is five acres in total size. The lowest northern area of the parcel, anticipated for development is approximately one acre in size and is zoned MV-CO. The remaining up-slope southerly portion of the parcel is zoned RS-1 and is approximately four acres. In connection with a much earlier land use permit application, which subsequently lapsed, the City obtained an open space easement over the southerly four acres. The parcel is entirely composed of 25% or greater slope. The 150-foot elevation contour line bisects the portion of the property zoned MV-CO.

The MVCP Open Space Plan, which was adopted in 1985, protects hillsides from any development above the 150-foot contour line. These areas are primarily zoned low-density residential and are within the Hillside Review Overlay Zone. What was apparently overlooked by City staff and the community is that there are a limited number of parcels that are zoned in the MVCP for commercial development that are at least partially above the 150-foot contour line. Therefore, despite being zoned for commercial development, development is prohibited because

Head. (1 page) Page 1

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Mr. John Wilhoit  
June 3, 2004  
Page 2

Attach 7  
(P.2)

of the conflict with the restrictions above the 150-foot contour line, effectively depriving those parcels of any economic use. The Environmentally Sensitive Lands Ordinance allows development of steep slopes if necessary to achieve a maximum development area of 25 percent of the premises. The Mission Valley Planned District Ordinance (MVPDO) section 103.2107(c)(2) further restricts the allowable development amount to 20 percent. The 150-foot contour line restriction does not allow our client to develop up to 20 percent of the parcel as allowed per the MVPDO. This clearly was an unintended consequence which can only be corrected by amending the Community Plan.

San Diego Municipal Code (SDMC) Section 122.0104(a) allows an amendment to a land use plan to be initiated if any of three primary criteria are met, or if supplemental criteria are met. We believe that our request for amendment satisfies two primary criteria; namely:

"(a)(1) The amendment is appropriate due to a map or text error or to an omission made when the land use plan was adopted or during subsequent amendments."

"(a)(3) The amendment is appropriate due to a material change in circumstances since the adoption of the land use plan, whereby denial of initiation would result in hardship to the applicant by denying any reasonable use of the property."

This amendment will not frustrate the intent of the MVCP or the General Plan because it will be extremely limited in application. All but a tiny portion of the protected hillsides will continue to be preserved. Denying the initiation will cause severe hardship to the applicant because it will prevent any reasonable use of the property.

For the reasons discussed above, we respectfully request support to initiate an amendment to the MVCP. A strikeout, underline of the proposed textual changes to the MVCP is enclosed.

Please advise us at once if anything more needs to be submitted in order to allow prompt consideration of our request. Thank you for your courtesy.

Very truly yours,

*J. M. McDade*

J. Michael McDade  
of  
SULLIVAN WERTZ McDADE & WALLACE  
A Professional Corporation

Enclosures

14

MISSION VALLEY COMMUNITY PLAN

Attach 7  
Page 3

HILLSIDES

Hillsides are geological features on the landscape whose slope and soils are in a balance with vegetation, underlying geology and the amount of precipitation. Maintaining this equilibrium reduces the danger to public health and safety posed by unstable hillsides. Development affects this equilibrium. Disturbance of hillsides can result in the loss of slope and soil stability, increased run-off, and intensified erosion; it can also destroy a community's aesthetic resources. The southern slopes of Mission Valley mark the community's boundary and provide an attractive and distinctive setting.

The open space areas shown in the General Plan and Progress Guide for the City of San Diego are predominantly comprised of steep hillsides and small undeveloped canyons. The southern slopes of Mission Valley are identified as part of that open space system. The major portions of the slopes are currently zoned for low-density residential development, and are further regulated as Environmentally Sensitive Lands, the Hillside Review Overlay Zone. As demand for land increases, these hillsides are more likely to face development pressure. Due to the impact hillside development can have on the community's health and safety, and on land, water, economic, and visual resources, it is apparent that if they are developed it must be in a manner compatible with hillside ecology. Whereas the southern slopes have been maintained in close to their natural state, the northern hillsides have been extensively modified and disturbed by extraction and building activities. Development oriented toward the Valley and accessed by roads from the Valley floor should not extend above the 150-foot elevation contour. ← limit

OBJECTIVE

Preserve as open space those hillsides characterized by steep slopes or geological instability in order to control urban form, insure public safety, provide aesthetic enjoyment, and protect biological resources.

PROPOSALS

- Designate the hillsides and canyons which have any of the following characteristics as open space in the community:
  - a. Contain rare or endangered species of vegetation or animal life.
  - b. Contain unstable soils.
  - c. Contain the primary course of a natural drainage pattern.

(15)

Attach  
(P. 4)

(16)

Attach  
(P. 5)

d. Located above the 150-foot elevation contour, except for parcels currently zoned for commercial/office use and bisected by the 150-foot elevation contour.

Permit only low intensity developments to occur on remaining hillsides exceeding 25 percent slope within the HR Zone located below the 150-foot elevation contour, except for parcels currently zoned for commercial/office use and bisected by the 150-foot elevation contour.

Open Space easements should be required for those lots or portions of lots in the HR Zone.

Lot splits should not be permitted on hillsides exceeding 25 percent slope except to separate that portion of a lot exceeding 25 percent slope from that portion not exceeding 25 percent slope for purposes of obtaining open space easements.

Development intensity should not be determined based upon land located exceeding 25 percent slope.

Encourage the use of Planned Developments to cluster development and retain as much open space area as possible.

Preserve the linear greenbelt and natural form of the southern hillsides.

Rehabilitate the northern hillsides and incorporate them into future development.

**DEVELOPMENT GUIDELINES**

Grading required to accommodate any new development should disturb only minimally the natural terrain. This can be achieved by:

- a. Contouring as naturally as possible to maintain the overall landform.
- b. Blending grading features into remaining natural terrain.
- c. Replanting with native, drought resistant plants to restore natural appearance and prevent erosion.
- d. Adapting buildings and parking areas to the natural terrain (i.e., tucking into hillsides, utilizing small pad areas, utilizing compatible site design).

Development constructed on natural hillsides should preserve and enhance the beauty of the landscape by encouraging the maximum retention of natural topographic features such as drainage swales, streams, slopes, ridgelines, rock outcroppings, vistas, natural plant formations, and trees.

- a. Orient new development along natural drainage courses which can provide natural amenity for the project, provided drainage is not impeded.
- b. Use pedestrian bridges and walkways to link various elements of developments separated by drainage courses or subsidiary canyons or gullies.

Design roads serving hillside and canyon developments carefully and sensitively.

- a. Roads serving residential development near the upper ridge of the south rim of the Valley should be cul-de-sacs or loops extending from existing upland streets. These extensions should be "single loaded" (with structures on one side only) and of minimum width.
- b. Roads serving Valley development (office, educational, commercial-recreation, commercial-retail) at the base of the hillsides should consist of short side streets branching off Camino Del Rio South or Hotel Circle South. These side streets should provide primary access to projects in preference to collector streets.
- c. Access roads should not intrude into the designated open space areas.

Access roads should follow the natural topography, whenever possible, to minimize cutting and grading. Where roads have to cross the natural gradient, bridges should be used rather than fill in order to maintain the natural drainage patterns.

Wherever possible, preserve and incorporate mature trees and other established vegetation into the overall project design.

Improve the appearance of the understructures of buildings and parking areas visible from below by:

- a. Providing sensitive site and structural design.
- b. Incorporating structures into the existing hillsides.
- c. Use appropriate screening materials (including landscaping).

Large-scale development (commercial, office, or commercial-recreation) at the base of the slopes should not cut or grade, nor extend above the 150-foot elevation contour on the southern slopes, except for parcels currently zoned for commercial/office use and bisected by the 150-foot elevation contour.

As part of the implementation process, height limits and site design regulations should be formulated in order to prevent the obscuring of views of the natural hillsides.

(17)

Attach 7  
(P. 6)

All that portion of the Mission Valley Community Plan area located south of Interstate 8 should be incorporated into a South Mission Valley Height Limitation Zone, which establishes a height limitation for a new or altered buildings of 40 to 65 feet.

The hillsides should provide a clear area of demarcation between the Mission Valley Community Plan area and the communities on the mesas above Mission Valley.

Development at the base of the slopes should utilize the following design principles:

- a. Emphasize a horizontal rather than a vertical orientation for building shape.
- b. Step back each successive floor of the structure to follow the natural line of the slope.
- c. Set the rear of the structure into the slope to help blend the structure into the site.
- d. Utilize building materials and colors that are of earth tones, particularly dark hues.
- e. Utilize landscape materials compatible with the natural hillside vegetation.
- f. Design roof areas to minimize disruption of views from the crest of the hillsides. Sloped or landscaped roofs and enclosed mechanical equipment can help to achieve this effect.

(18)

Attach 7  
(P. 7)

This redlined draft, generated by CompareRite (TM) - The Instant Redliner, shows the differences between -

original document : S:\CLIENTS\0059\011\DM\MISSIONVALLEYCP.DOC  
and revised document: S:\CLIENTS\0059\011\DM\MISSIONVALLEYCP V2.DOC

CompareRite found 5 change(s) in the text

Deletions appear as Overstrike text  
Additions appear as Bold+Dbf Underline text

Cycle Issues

04A-003A THE CITY OF SAN DIEGO Development Services 1222 First Avenue, San Diego, CA 92101-4164 3/23/2004 12:38:37 PM : Page 1 of 18

Project Information 2778 Pacific Coast building Development: 24720 Pacific Coast building Project Mgr: Tripp, Bill (619) 446-6273 wrtrip@sandiego.gov

Review Cycle Information Review Cycle: 1 Preliminary Review [Closed] Deemed Complete on 1/28/2004 15:57:55 Opened: 1/20/2004 02:10 PM Closed: 3/23/2004 12:34 PM Submitted: 1/28/2004 03:57 PM

Review Information Reviewing Discipline: LDR-Planning Review Requested: 1/30/2004 12:38 PM Started: 2/4/2004 01:40 PM Reviewer: Meza, Renee Assigned: 2/3/2004 09:09 AM Completed: 2/17/2004 11:48 AM Next Review Method: Preliminary Review Reassigned: Needed Again:

Table with 2 columns: Cleared?, Issue Number and Description. Contains 11 rows of project details and responses to applicant questions.

Handwritten notes: 'cess 5 due', 'Plan Amendment - Long Range Comments) p. 8' with an arrow pointing to the table.

Cycle Issues

04A-003A THE CITY OF SAN DIEGO Development Services 1222 First Avenue, San Diego, CA 92101-4164 3/23/2004 12:38:37 PM (2 pages) (P.2) Page 5 of 5

Project Information 2778 Pacific Coast building Development: 24720 Pacific Coast building Project Mgr: Tripp, Bill (619) 446-6273 wrtrip@sandiego.gov

Review Cycle Information Review Cycle: 1 Preliminary Review [Closed] Deemed Complete on 1/28/2004 15:57:55 Opened: 1/20/2004 02:10 PM Closed: 3/23/2004 12:34 PM Submitted: 1/28/2004 03:57 PM

Review Information Reviewing Discipline: Fire-Plans Officer Requested: 1/30/2004 12:38 PM Started: 2/6/2004 09:54 AM Reviewer: Madan, Bob Assigned: 2/3/2004 09:40 AM Completed: 2/6/2004 10:28 AM Next Review Method: Preliminary Review Reassigned: Needed Again:

Fire Dept. Issues (for review)

Table with 2 columns: Cleared?, Issue Number and Description. Contains 15 rows of fire department issues.

Review Information Reviewing Discipline: Plan-Long Range Planning Requested: 1/30/2004 12:38 PM Started: 2/23/2004 09:08 AM Reviewer: Wilholt, John Assigned: 2/6/2004 12:36 PM Completed: 2/23/2004 09:52 AM Next Review Method: Preliminary Review Reassigned: Needed Again:

New Issue Group (152448)

Table with 2 columns: Cleared?, Issue Number and Description. Contains 2 rows of new issue group details.

(21) John Wilhoit - RE: Pacific Coast Assets Office Building PTS #27762

From: John Wilhoit  
 To: Sheredy, Kim  
 Subject: RE: Pacific Coast Assets Office Building PTS #27762  
 CC: Mantis, Bob

Attachment 9  
 (1 page)

Kim: Some good news for the applicant. We were analyzing the proposal and considering the options to justify the community plan amendment without using the existing zoning as the applicant proposed. In doing so we've determined that we can support the project without the plan amendment based upon the following:

- 1) The community plan states that "Large-scale development (commercial, office, or commercial-recreation) at the base of the slopes should not cut or grade, nor extend above the 150-foot elevation contour on the southern slopes." Insofar as the proposed structure is approximately 10,000 square feet while the structures on the abutting properties are up to 71,000 square feet and average 30,000 square feet, the proposed structure can be considered less than "large-scale."
- 2) The development would be largely screened from view from the public right-of-way by structures north of the property.
- 3) There is development abutting to the west that extends above the 150-foot contour into the designated open space.
- 4) Due to the open space easement, the project could not extend more than approximately 50 feet into the designated open space.
- 5) Approximately 80 percent of the parcel is in an open space easement.

Note that any project on this site will need to be very carefully designed to minimize the grading, visual, and other impacts. Also, as I stated before FYI, the zone boundary and the easement boundary are not coterminous according to our records. Let me know if you have any questions.

John Wilhoit  
 Senior Planner

Parcel Information Report

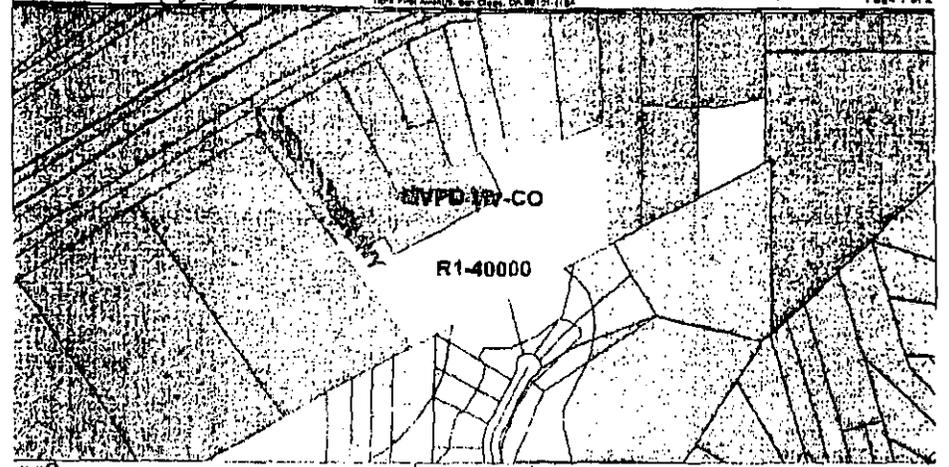
Report Number 101

22

THE CITY OF SAN DIEGO  
 Development Review  
 1691 First Avenue, San Diego, CA 92101-1194

11/1/2009 14:58:21

Page 1 of 1



Map Layers Included in Report

Description	Visible	Transparent	Has Intersecting Features
Roads	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	No
Freeways	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	No
Parcels	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Yes
Community Plan	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Yes
Zoning Action Index	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Yes

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Intersecting Features

Parcels		Valuation	Other
APN	Record	Land	Units
018-180-2400	Record: 443846 Date: 12/3/2009	Land: 8255,000	Units: 0
Legal	Owner Information	Imp: 50	Taxable: <input checked="" type="checkbox"/>
Address(es)	9970 GRANDVIEW DR LA MESA CA 91941	Total: 8255,000	Own. Occ: <input type="checkbox"/>

Community Plan Name	Code
MID-CITY: NORMAL HEIGHTS	BR
MISSION VALLEY	1B

(23)

Sender is in your Contacts list Learn more

2:05 PM 4/28/06

From: Jim Pa [redacted]@cox.net

To: "Randy Berkman" <jrb223@hotmail.com>

Subject: Re: Impact of coastal sage scrub from fire zone clearing?

Hello Randy, Initially the wildlife value will be reduced substantially. But, the way it is designed, each year 50% will be cut and cleared, so each year there will be fewer and fewer large perennial plants.

The pruning of the remaining plants will reduce their ability to cool the soil beneath them and the duff that is usually kept around the plants by low branches will be blown away. This will probably seriously reduce the ability of new perennial native plants to sprout. It will also reduce the support value for insects, therefore rodents and birds, therefore larger mammals. The loss of ground cover and the disturbance of the crews and machinery clearing the area will encourage the additional invasion of annual weeds. I do not think that the zone 2 area will be a CSS community for more than a few years. The examples that the City showed us looked pretty miserable.

Even if some of the CSS vegetation survives, the zone 2 area will be badly degraded and not very productive and probably be considered appropriate for development in the future.

I suspect that as soon as the weeds begin to dominate, the fire risk to nearby development will be worse than with the CCS. They ignite more easily. We raised these issues during the review of the EIR, but no serious analysis was done about it and the City's responses were pretty flippant.

I will forward this to Rick Hulse and Bruce Goff who know a lot about CSS than I do.

Do you see some way to challenge the policy at this point?

Is your interest about the Gateway building in Mission Valley? Since that is on a steep slope, the removal of zone 2 vegetation will probably result in erosion problems with the subsequent water quality and possible flooding implications as

mailto:pa.jim@cox.net?Content=TextMessage&X-Content-Source=MS-Exchange&id=6128648-54f1-12ca-0190-9a776656ca7&FolderID=00000000-00000000-00000000

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Attachment 10

(24)

Int 12  
(page 1)

# NORMAL HEIGHTS COMMUNITY PLANNING GROUP

April 18, 2006

Mr. Ken Teasley, Hearing Officer  
City of San Diego  
Re: Pacific Coast Office Building

Dear Mr. Teasley:

The Normal Heights Community Planning Group heard a presentation by Mr. Robert Pollack regarding his Pacific Coast Office project. A vote of 10-0 was taken against this project on several grounds.

- Mr. Pollack's project seeks to build above the 150' line in the MVPDO "Preservation of Steep Slopes" section. While we have heard that DSD has said that is not a problem, we strongly disagree. The point is not whether this project does not encroach much, or will not set a precedent, or that it prevents development of his project, it is quite simply that is not allowed under the above provision. There should not even be a hearing. It is not incumbent on the public to change zoning to allow development where it is not allowed. It is incumbent that an individual do their due diligence before purchasing property to see if current zoning will allow them to build what they want to build.
- While our Planning Group was not publicly noticed on this project it nevertheless does abut to our boundaries and a courtesy notice would have been appropriate, especially given that it is asking for an exemption to the canyon slopes which are part of our boundaries.
- This type of office development has been proposed before in 1977 and was not found to be in the public interest by the Planning Department and the Planning Commission.
- Mr. Pollack purchased the land knowing what the limitations were. It is not up to the public, the City or any other group to make accommodations for these limitations. It is however, up to him to find a way to work within the limitations of the property.
- There is no fire dept. access. Instead the building is to have sprinklers installed. I believe most new buildings already require this, so this does not address the issue of fire dept. access to the slopes. We in Normal have seen first hand what a fire in the canyons can do to us. No project anywhere near the canyon slopes should be without fire access.

I have been in contact with Mr. Randy Berkman regarding this project and can only add our voice to the many salient comments he makes and very valid issues he raises.

- Robert Berkman  
10500 Mission Valley Road  
San Diego, CA 92116
- Jim Burdick  
1127 N. Mountain  
Vista, CA
- Charles Bunting  
4801 - 48th Street  
San Diego, CA 92116
- Jarrell Bradley  
3277 Mission Avenue  
San Diego, CA 92116
- Myrle Dyer  
5000 Mansfield Street  
San Diego, CA 92116
- Steven Jaroh  
4729 Bellini Street #B  
San Diego, CA 92116
- Kelly Krauzinger  
4770 - 32nd St. #7  
San Diego, CA 92116
- Suzanne Ledebuer  
3540 Bugana Place  
San Diego, CA 92116
- Jessica McGee  
5004 Mansfield Street  
San Diego, CA 92116
- Holly Ritter  
3832 Mission Avenue  
San Diego, CA 92116
- Erin DeThorn  
4574 Cherokee  
Avenue  
San Diego, CA 92116
- David Van Pelt  
4813 Mansfield Street  
San Diego, CA 92116
- 4649 Hawley Field  
San Diego, CA 92116

Contact: Judy Ellins  
(619) 428-5206

23

Attachment 12  
(P. 3)

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Attachment 12  
(P. 3)

# POTTER & ASSOCIATES

PLANNING & ENVIRONMENTAL SERVICES



4975 Milton Street, San Diego, CA 92110-1252  
tel: (619) 275-5120 fax: (619) 275-6960  
e-mail: davidapott@aol.com

April 13, 2006

Kenneth Teasley, Hearing Officer  
City of San Diego  
City Administration Building  
202 C Street  
San Diego, CA 92101

**Subject: Hearing Officer Agenda of April 19, 2006, Pacific Coast Office Building,  
Project No. 54384**

Dear Mr. Teasley:

I will be out of town starting tomorrow and may not return before April 19. Therefore, I am providing my comments to you via e-mail and request that they be entered into the record.

Unfortunately, until I read the staff memo dated April 12, I was not aware that the Mitigated Negative Declaration had once again been revised as of March 31, 2006.

I am writing on behalf of Gary and Nancy Weber, who reside in the adjacent community of Normal Heights. The Webers have long been active and strong proponents of the open space system that includes the south slopes of Mission Valley and the southerly-trending finger canyons. This is an open space system that is shared by the two communities. Mr. and Mrs. Weber were disturbed to learn recently that City staff is recommending approval of a project that extends 16 feet above the 150-foot contour that was established as the northern boundary of the open space system. Equally disturbing is the fact that they had to learn about this project from the "San Diego Reader." Without question, the Mitigated Negative Declaration should have been sent to the Normal Heights Community Planning Committee for review and comment. And, of course, it should have been sent to the Council District 3 office as well.

One need only look at the Vicinity Map to realize that this project abuts single-family residential properties in Normal Heights and may have as much, if not greater, impact on Normal Heights as on Mission Valley, particularly in the areas of Land Use, Landform Alteration and Visual Quality. Unfortunately, the Mitigated Negative Declaration addresses views of the project only from Mission Valley.

The Mitigated Negative Declaration (MND) (version dated January 3, 2006) has other deficiencies, including, but not limited to, the following:

1. The Revised Final MND (1/3/06) states "in accordance with CEQA section 15073.5(c)(4), redistribution of the revised final document was not required as there

We strongly oppose this project and can find no compelling reason to allow it go forward. The Normal Heights Community Planning Group urges you to bring this forward to the Planning Commission for a full discussion of the issues and to assign Mr. Pollack to revise his plans so that his building does not encroach into the 150-foot canyon contour line.

Sincerely,

Judy Elliot

Judy Elliot  
Chair

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if Hacking 1/2  
(page 4)

are (no?) new impacts and no new mitigation was identified. This revision does not affect the environmental analysis or conclusions of this document."

But that's not what the CEQA Guidelines state. Section 15073.5(c) states "recirculation is not required under the following circumstances:

(4) New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration."

Since there was absolutely no discussion of Landform Alteration/Visual Quality or Land Use in the October 14, 2005. version, one cannot argue that the revised document (1/3/06 or 3/31/06) merely clarifies, amplifies, or makes insignificant modifications. These are entirely new discussions that warrant review by the public, including the community of Normal Heights.

2. The Revised Final MND (1/3/06) states, "the City of San Diego's Significance Guidelines include thresholds for determining potentially significant land form alteration impacts related to grading. Projects that would alter the natural (or naturalized) landform by grading more than 2,000 cubic yards of earth per graded acre by either excavation or fill could result in a significant impact."

But the City's Significance Determination Thresholds also include the following caveat: "Grading of a smaller amount may still be considered significant in highly scenic or environmentally sensitive areas." (emphasis added) It's absurd to suggest that this is not a "scenic or environmentally sensitive area;" that's why a Site Development Permit is being processed. Therefore, the amount of grading proposed is potentially significant, warranting an EIR.

The Project Data Sheet includes the following erroneous information:

1. Zone: fails to mention that part of the site is zoned RS-1-1.
2. Community Plan Land Use Designation: fails to include Open Space.
3. Adjacent Properties to South: fails to include single-family residences. See Vicinity Map.
4. Deviations or Variances Requested: Why "None"? The Site Development Permit on pages 2, 3, 7, 8 and 9 clearly recognizes a deviation.

The Supplemental Findings for Environmentally Sensitive Lands make the following erroneous statement: "The proposed development is consistent with what is shown in the Community Plan and does not propose to encroach into any areas of designated open space or MHPA open space." This is clearly a false statement since the project extends above the 150-foot contour.

On behalf of Mr. and Mrs. Weber, it is requested that 1) the item be continued; 2) an EIR be prepared that addresses at a minimum Land Use and Landform Alteration/Visual Quality and provides alternatives, including at least one that does not require deviations; and 3) the environmental document be distributed to the NHCPC for review and comment.

(28)

1. sent 12  
(pages)

Thank you for your consideration.

Sincerely,

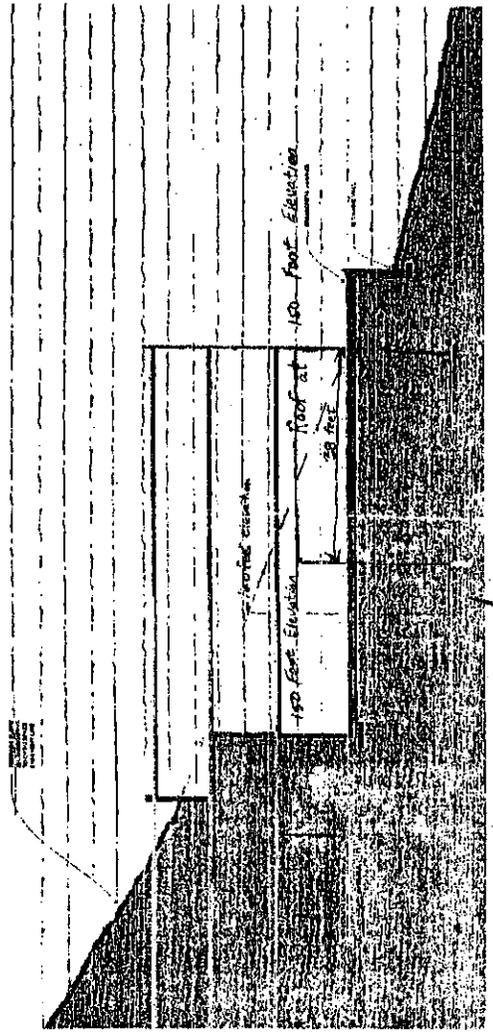
David A. Potter, AICP

cc: Gary and Nancy Weber  
Councilmember Faye, District 6  
Councilmember Atkins, District 3

(29)

Reduced Impacts Option  
Roof of Building at 150 Feet  
Elevation; Compliant with  
Mission Valley Plan, PSD

part of site. This  
is lowest and least  
steep. See Attachment #4  
Footprint: about 1/3 of Proposed Plan  
Including parking building



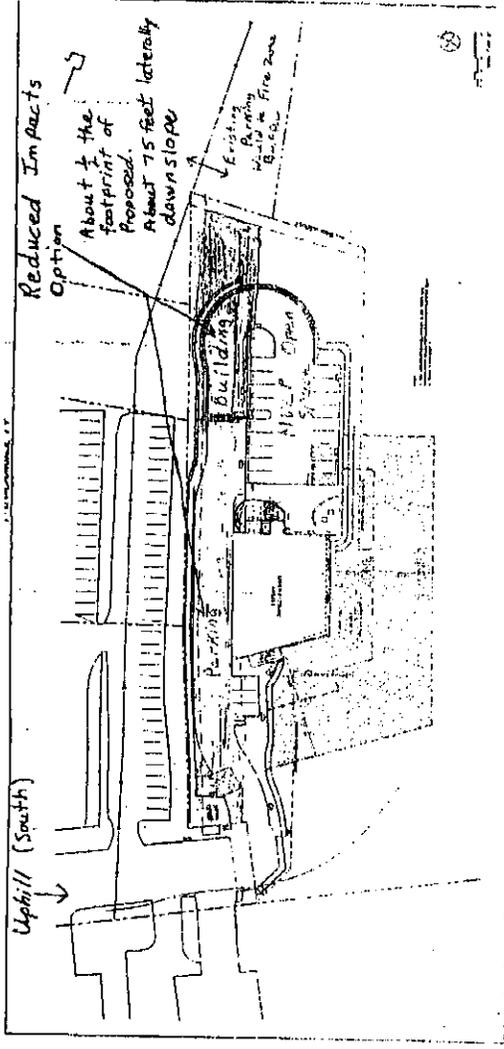
Site Section  
19 January 2004  
Scale

Pacific Coast Office Building  
San Diego California



Reduced Copy: "legend" is distorted  
by reduction

(30)



Reduced Copy of 11/17/04  
original

Attachment 14

31

Attaches

Table 4-41: Summary of Biological Impacts - LRT Alternative (Acres)

Habitat	Total
<b>Significant Habitats</b>	
Diegan Coastal Sage Scrub	5.1
Southern Mixed Chaparral/Diegan Coastal Sage Scrub - Laurel Sumac Dominated Ecotone	0.3
Coyote Bush Scrub/Disturbed Diegan Coastal Sage Scrub Ecotone	2.9
Southern Willow Scrub	0.1
Southern Willow Riparian Woodland	0.5
<b>Habitat Total</b>	<b>8.9</b>
<b>Jurisdictional Impacts</b>	
CDFG Jurisdiction	0.0
USACOE Jurisdiction	1.7 (0.6 acre of wetland and 1.1 acres of non-wetland Waters of the U.S.)
<b>Jurisdictional Total</b>	<b>1.7</b>
* Included in "Significant Habitats" listing.	

Source: Sweetwater Environmental Biologists, 1996.

Diegan Coastal Sage Scrub Associations

Impacts to Diegan Coastal Sage Scrub (DCSS) would be considered significant because of the affected status of this community. This habitat is described by some experts as the most endangered habitat type in the continental United States and can support several sensitive species. Much of the remaining habitat has become fragmented or isolated by development, as is the case in the project area. Approximately 5.1 acres (2.1 ha) of DCSS associations found in the impact corridor would be affected by the LRT Alternative. Also, 2.9 acres (1.2 ha) of coyote bush scrub/DCSS ecotone and 0.3 acres (0.12 ha) of southern mixed chaparral/DCSS ecotone would be affected by the LRT Alternative.

The project would further fragment some areas of native habitat with the placement of fill for trackwork. The placement of the transit line close to the edge of the I-8 Freeway and minimizing the fill required minimizes impacts to coastal sage scrub, including any species that may use this block of habitat, either within and outside the project corridor. This would thereby minimize impacts to other coastal sage scrub-dependent species, such as the coastal California gnatcatcher, southern California rufous-crowned sparrow, cactus wren, and the San Diego black-tailed jay-rabbit. Remaining impacts would not be significant due to the relatively small amount of habitat affected.

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A. Hachant # 10  
P. 1

LAND USE

INTRODUCTION

The CEQA Guidelines Appendix G, IX states that Lead Agencies should evaluate the potential significance of a project on Land Use and Planning under the following criteria:

- (a) physically divide an established community?
- (b) conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?
- (c) conflict with any applicable habitat conservation plan or natural community conservation plan.

In accordance with State Planning and Zoning Law, the City of San Diego has adopted a Progress Guide and General Plan which provides a comprehensive long-term plan for the development of the City. In addition, the City has adopted community and specific/precise plans which provide growth development goals and guidelines for the various communities and subareas. These plans include land use elements and also may include design, resource management and environmental elements or goals.

In analyzing whether a project may create a potentially significant land use impact, the project should be assessed for consistency with any adopted plans for the particular site. An inconsistency with a plan is not necessarily a significant environmental impact; the inconsistency would have to relate to an environmental issue to be considered significant under CEQA.

SIGNIFICANT DETERMINATION

The following will be considered significant land use impacts:

- 1. Inconsistency/conflict with the environmental goals, objectives, or guidelines

San Diego County Department of Planning and Economic Development  
Environmental Impact Statement



11.2.4  
**Legend:** Provide the following information in the legend, by category (i.e., the distance from areas with native or naturalized vegetation): See Municipal Code Table 142-04F for additional information

Symbols for all proposed plant materials

Botanical names and common names (provide more than two selections under each symbol)

Pounds per acre of seed mixes, or center spacing of container stock and root cuttings

Breakdown, in percentages, of the various container sizes of each symbol (e.g. 10 percent, 24-inch-box; 20 percent, 15-gallon; 20 percent, 5-gallon; 25 percent 1-gallon and 25 percent liners)

Mature height / spread of trees and shrubs

Form and function of each plant symbol, such as small canopy tree or shrub, fire retardant/deep rooting ground covers for erosion control; small naturalizing flowering shrub for visual blending with existing habitat and deep rooting for erosion control, etc.

11.3  
**Conditional - TENTATIVE MAP/MAP WAIVER PLAN:** Refer to Municipal Code Table 142-04H (May be included with Landscape Development Plan when labeled such and the plan has sufficient clarity). Note: **Alternative Compliance** is not an option under the Municipal Code

11.3.1  
**Design Method:** Provide a statement describing the method of design and the criteria used in developing your **Site Management** plan. Refer to USC Sections 142-0412 (c) (d) (e) (f) & (i)

11.3.2  
**Site Development Features:** If **Site Management** plan is separate from the landscape plan, include the same site development features as identified in the Landscape Plan requirements.

11.3.3  
**Site Management Plan:** Provide a **Site Management** plan with the following:  
 - Structure setback from all slopes steeper than 25% and over 50 feet in vertical height  
 - Zones One and Two graphically shown, dimensioned and labeled  
 - Provide zone one and two map markers (USC Sections 142-0412 (g) & 142-0412 (h))  
 - Symbols on the plan and in the legend that clearly represent the planting scheme in Zones 1 and 2

11.3.4  
**Site Management Program:** Provide a description of the proposed **Site Management** program with the following information [refer to USC Sections 142-0412 (k), (l)]  
 - Detailed description of the implementation for each Zone, including the method of thinning/pruning in Zone 2  
 - Long-term maintenance program and notes (including time of year for thinning for each Zone and responsible party for monitoring the maintenance)

11.3.5  
**Table:** Provide Table 142-0411 indicating the Zone depths that the **Site Management** plan was designed under.

12.0  
**TENTATIVE MAP/MAP WAIVER:** These maps must be in the format as described in the Subdivision Manual and be in conformance with the Subdivision Map Act and regulations in the Municipal Code. A Process 4 Site Development Permit is required for condominium conversion projects which request deviations from the development regulations in Section 144.0507. See 12.17 below for submitted requirements.

12.1  
**Stamped:** All plans must be stamped by professionals allowed and licensed to prepare tentative maps by the California Business and Professions Code. These professionals include a Professional Land Surveyor (PLS) or a Registered Civil Engineer (RCE).

12.2  
**Dimensional:** Plans must be fully dimensioned including center line to property line and curb to property line

12.3  
**Vicinity Map:** Provide a vicinity map locating the site. Include freeways, major arteries and local collectors.

12.4  
**Legal Description:** Provide complete legal description and Assessor's Parcel Number(s).

(A) Additional Development Permit Findings for Environmentally Sensitive Lands:

- (1) *The site is physically suitable for the design and siting of the proposed development, and the development will result in minimum disturbance to environmentally sensitive lands.* **Conflict**
    - The proposed development complies with the development area regulations, where applicable pursuant to the Environmentally Sensitive Lands Regulations.
    - The proposed development conforms with the design standards for structure design and site improvement. Design concepts are incorporated into the development where feasible.
  - (2) *The proposed development will minimize the alteration of natural landforms and will not result in undue risk from geologic and erosional forces and/or flood and fire hazards.* **Conflict**
    - The proposed development conforms with the design standards for grading, landform alteration, and site improvement. Design standards are met and design concepts are incorporated into the development where feasible.
    - The proposed development complies with the regulations for drainage and erosion control measures and incorporates drainage guidelines.
    - The use of retaining walls in the proposed development is minimized and conforms with the design guidelines for retaining walls. **Conflict**
  - (3) *The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.*
    - The proposed development conforms with the design standards for the type of development proposed.
    - The proposed development conforms with the specific requirements for steep hillside developments for the Community in which the development is located.
  - (4) *The proposed development will be consistent with the City of San Diego MSCP Subarea Plan.*
    - If within or adjacent to the MHPA, the proposed development will be in conformance with any recommendations regarding development location and siting.
    - Steep hillside which contain sensitive biological resources will be regulated through the sensitive biological resource and the Biology Guidelines and conformance with other goals of the Subarea Plan will be required.
  - (5) *The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.*
- [This finding is only applicable if the site contains sensitive coastal bluffs or coastal

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Attach. 20

From: Mark Massara <MarkMassara@CoastalAdvocates.COM>  
DavidAPott@aol.com

Subject: Re: Pacific Coast Office Building  
Date: Monday, April 10, 2006 8:53 AM

I took a look at the emails I sent to me and talked with Dave Miller re: PCOB. We talked about two issues. First, Dave believes that there is a science/policy distinction between the terms "erosion control device" and "slope stability device". He has meticulously researched the issue more than I. I believe that SSDs by definition act as ECD, and therefore it doesn't matter what you call it, it would result in a process IV permitting path and be highly discouraged in ESL as a matter of policy. Dave believes otherwise, and I'm not sure, as a practical matter, that a process III or process IV is a better venue for deliberation of the underlying environmental/policy issues.

Second, there is the CEQA analysis. Dave believes that republishing and recirculating an env. document is not necessary due to the specific legal requirements associated with an ND as compared to an EIR. Again, I believe the safer course would be to allow the analysis based upon the severe inadequacies associated with the underlying local environmental review.

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Attachment 21

> Date: Fri, 13 Jan 2006 16:10:49 -0800  
> From: DEMiller@sandiego.gov  
> To: jrb223@hotmail.com; BDidion@sandiego.gov  
> CC: markmassara@coastaladvocates.com; JLindsay@sandiego.gov  
KHeumann@sandiego.gov  
> Subject: Re: Pacific Coast Office Building

> Unfortunately, the department comes to our office after all of their conclusions are made. When a determination has already made, individuals occasionally feel attacked when an opinion which differs from theirs comes from our office. This environment causes individuals to dig in and defend their opinions regardless of the validity. Working together from the start would significantly reduce such issues in the future.

> In this case, our office focused on one potential issue at the hearing. During more detailed review of the project and the municipal code over the past few months, other issues have arisen. First, a revised MND with numerous new paragraphs and whole new sections was presented without re-circulation. The fact that the conclusion is no different does not matter. The document needs to be re-circulated. This is a new problem, recent in its creation, that could not have been known at the last hearing. In addition, the tardiness of my opinion regarding the proper process for the hearing was due to my lack of in-depth knowledge of the Environmentally Sensitive Land Regulations. Finally, there are questions about whether an MND was sufficient for this project.

> Regardless of how and when the issues have arisen, it does not change the outcome. The hearing should be a Process IV, as a deviation from the ESL Regulations is being requested. Staff should review the environmental determination to evaluate why intruding into steep slopes above the 150' contour line does not have potentially significant environmental impacts such that an EIR is required. ) correct

> Rather than argue and hold a hearing on Wednesday that will be void, we should plan to address the issue. It is my suggestion that the item be taken off the calendar for this Wednesday, reexamined, and rescheduled for Planning Commission.

> In the interim, I would suggest, as I did at the hearing that the project proponent bring forward alternative designs to show that this is the minimum deviation necessary.

> David E. Miller  
> Deputy City Attorney  
> (619) 533-6458  
> demiller@sandiego.gov

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Attachment 23

Randy, yes you may quote me. When the matter came before the MVUPG on Sept 7, 2005 we heard a presentation from Pollack's folks. They showed us an artist's rendering of the proposed building. It appeared to be on level ground. I would like to mail you that document, and also the three photos I took. I do not believe that anyone in our group had visited the site. No one voted or spoke out against the project, as we really didn't have any information other than what Pollack's guys said. The MVUPG sub-committee, chaired by Bruce Warren submitted their findings. I can send you a copy of this. We didn't have adequate info to make an intelligent decision.

When we revisited the propose project May 3, Lynn Mulholland spoke about us reconsidering our decision. This was changed by someone else into a Motion to Appeal. That was voted down 3-17-1. I can send you the minutes.

Some days later I asked Tom Sudberry to visit the site. We did. Bruce Warren showed up, and after about five minutes, said he had an appointment, and left without comment.

June 7 the matter came up again. No motion was made, I spoke against it, passed around my photos. Lynn M. was not at the meeting. Only Pat Grant (part owner of Quarry Falls land) had anything to say. She asked some good questions, no one responded.

July 8 I am going on vacation for three weeks (Yes, retired folks take vacation from their vacations) so send me your address ASAP. Sorry this is late.

P.S. I recently asked one of our Board members (since 1994) and was told the MVUPG has only voted "NO" on one

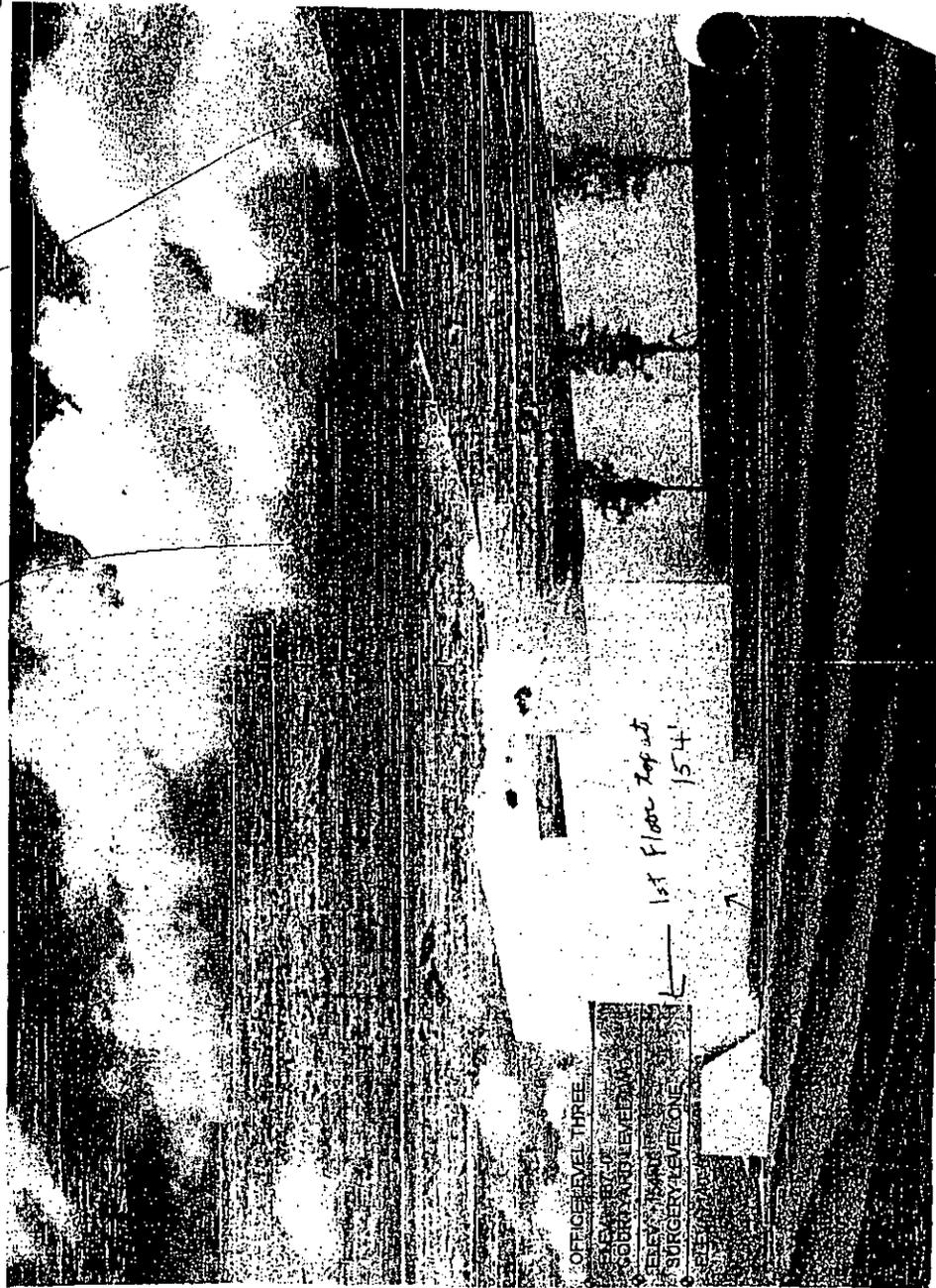
*Email from Gail Thompson  
member of Mission Valley Unified Planning Group*

40  
OPEN SPACE  
EASEMENT  
BEYOND TO  
PROPERTY LINE

2004 Plan

UNITS UNDER CONSTRUCTION  
LEVEL TWO  
ELEV. +154'-0"

Attach 25



(41)

Attachment 26

(42)

Attachment 27



Land Development Review Division (619) 448-5460

Mitigated Negative Declaration

Staff: Anne B. Jarque - (619) 687-5961

Project No. 54384 SCH No. 2005091022

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:42 p.m. - 5:00 p.m.; 5:35 p.m. - 5:48 p.m.; 6:18 p.m. - 6:22 p.m.)

Testimony in favor of appeal by Randy Berkman, Jim Peugh, Ellen Shively, Gail Thompson, Lynn Mulholland, Eric Bowlby and Alan Hunter.

Testimony in opposition of appeal by Mike McDade, Dr. Robert Pollack, Robert Vacchi and Doug Childs.

Motion by Frye to grant the appeal and set aside the environmental determination (mitigated negative declaration no. 54384). Remand the matter to the previous decision maker with direction to review the alternatives to reduce the impacts. Failed. Yeas-3,4,6. Nays -1,2,7,8. 5-not present.

MOTION TO RECONSIDER BY MADAFFER. SECOND BY COUNCIL PRESIDENT PETERS. PASSED BY THE FOLLOWING VOTE: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY FRYE TO GRANT THE APPEAL AND SET ASIDE THE ENVIRONMENTAL DETERMINATION (MITIGATED NEGATIVE DECLARATION NO. 54384). REMAND THE MATTER TO THE PREVIOUS DECISION MAKER WITH DIRECTION TO REVIEW THE ALTERNATIVES TO REDUCE THE IMPACTS. DIRECT THE CITY ATTORNEY TO PREPARE THE APPROPRIATE RESOLUTION PURSUANT TO SECTION 40 OF THE CHARTER. Second by Council President Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

X omitted from MND!

SUBJECT: PACIFIC COAST OFFICE BUILDING: SITE DEVELOPMENT PERMIT to construct an approximately 9,845 square-foot, two-story office building on a vacant 4.94-acre parcel. The project is located just east of the terminus of Schedler Way, in the Mission Valley Planned District within the Mission Valley Community Planning area (Lot 1 of Nagel Tract Unit No. 2 Subdivision, Map 4737).

UPDATE: March 5, 2007: On September 26, 2006, an environmental appeal on the project was before the City Council. City Council granted the appeal and set aside the environmental determination and remanded the matter to the previous decision maker (the Planning Commission). In addition, City Council directed staff to provide additional information in the document regarding the various project designs that had been considered by the applicant, to allow the public to review the project's design process, and to provide for public input through the document recirculation process.

Series mis-statement

Therefore, based on City Council's direction, this information has been provided and this Mitigated Negative Declaration has been recirculated for public review and input.

- I. PROJECT DESCRIPTION: See attached Initial Study.
II. ENVIRONMENTAL SETTING: See attached Initial Study.
III. DETERMINATION:

The City of San Diego conducted an Initial Study which determined that the proposed project could have a significant environmental effect in the following areas(s): BIOLOGICAL RESOURCES, LAND USE/MSCP, AND PALEONTOLOGICAL RESOURCES. Subsequent revisions in the project proposal create the specific mitigation identified in Section V of this

(43)

Attachment  
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- (1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
  - (2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
  - (3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with section 112.0520(f) to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.
- (e) If the City Council denies the appeal or grants the appeal under section 112.0520(h)(2), the lower decision-maker's decision to grant the entitlements, approval or City authorization shall become effective immediately.
- (f) If the City Council grants the appeal under section 112.0520(d)(3), the lower decision-maker's decision to grant the entitlements, approval or City authorization shall be rescinded by the lower decision maker shall reconsider its *environmental determination* and its decision to grant the entitlements, approval or City authorization, in view of the action and, where appropriate, any direction or instruction from the City Council.
- (1) If the *environmental determination* was a decision that the activity was not subject to CEQA, the matter shall be remanded to the Development Services Director to prepare a revised *environmental determination* in accordance with section 128.0103.
  - (2) If the *environmental determination* was the certification of an environmental impact report or adoption of a negative declaration or mitigated negative declaration associated with a Process Two or Three decision, the matter shall be remanded to the Planning Commission for consideration of a revised *environmental determination*.
  - (3) If the *environmental determination* was the certification of an environmental impact report, adoption of a negative declaration or mitigated negative declaration associated with a decision by the City Manager, the matter shall be remanded to the City Manager for consideration.
- (g) If the decision on appeal is made with section 112.0520(d)(3), results in the same type of environmental document, such decision shall be deemed the final action.
- (Added 7-26-2001 by O-193075.S.)

Ch.	Art.	Div.
11	2	5

4/21/92

LAND

Amendment No. 3

AMENDMENT  
TO THE  
MISSION VALLEY COMMUNITY PLAN

Attachment 29, P.1  
(8 pages)

(44)

On April 21, 1992, the City Council adopted an amendment to the Mission Valley Community Plan by Resolution No. 279807. The amendment resulted in the following changes to the community plan:

Page 40, Figure 5, Land Use Plan. The redesignation of several southern hillside areas to open space. Community plan and land use designation boundary adjustments were also made and the Light Rail Transit (LRT) alignment was added to this map.

Page 52, Figure 6, FSDRIP Specific Plan Map. Deleted.

Page 53, Figure 7, Northside Specific Plan Map. Deleted.

Page 54, Figure 8, Atlas Specific Plan Map. Deleted.

Page 55, Figure 9, Levi-Cushman Specific Plan Map. Deleted.

Page 56, Figure 10, Specific Plan/Multiple Use Area Map. Revised to illustrate specific plan boundaries.

Page 76, Figure 17, Proposed Light Rail Transit w/ Shuttle Service Map. Revised to illustrate the adopted LRT line and station locations.

The adopted map changes are attached. These revisions will amend the Mission Valley Community Plan. No text changes were adopted in conjunction with this amendment. For further information regarding these amendments, contact the Mission Valley Community Planner at (619) 533-3650.



The City of San Diego

# MANAGER'S REPORT

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P.2

# 331  
4-21-92

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Page 2

DATE ISSUED: April 14, 1992                      REPORT NO. P-92-097  
ATTENTION: Honorable Mayor and City Councilmembers, Agenda of April 21, 1992.  
SUBJECT: MISSION VALLEY COMMUNITY PLAN/GENERAL PLAN AMENDMENT.  
REFERENCE: City Council Hearings of July 9 and 23, 1990 regarding the Mission Valley Planned District Ordinance.

## SUMMARY:

**Issue:** - This report addresses an amendment to the Mission Valley Community Plan and the Progress Guide and General Plan to redesignate several hillside areas south of Interstate 8 from various commercial designations to open space. In addition, other amendments to the Mission Valley Community Plan are proposed to correct boundary errors and add clarity to the Plan regarding the Mission Valley West Light Rail Transit line and specific plan areas.

**Planning Commission Recommendation:** - On January 23, 1992, the Planning Commission voted 5 to 0 to approve and recommend City Council adoption of the proposed Mission Valley Community Plan/General Plan Amendment.

**Manager's Recommendation:** - APPROVE the proposed Mission Valley Community Plan/General Plan Amendment.

**Community Planning Group Recommendation:** - On February 5, 1992, the Mission Valley Unified Planning Committee voted 15-0-1 to approve the Mission Valley Community Plan/General Plan Amendment.

**Other Recommendations:** - On January 21, 1992, the Greater North Park Planning Committee voted 8-0-3 to approve the Mission Valley Community Plan/General Plan Amendment. On February 4, 1992, Uptown Planners voted 17-0-1 to approve the project. The Normal Heights and Kensington-Talmadge community planning groups have been notified of the proposal but have not submitted recommendations to date.

R-279807

**Environmental Impact:** - This project is exempt from CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines.

**Fiscal Impact:** - None with this action.

**Code Enforcement Impact:** - None with this action.

**Housing Affordability Impact:** - None with this action.

## BACKGROUND:

During the July, 1990 City Council hearings on the Mission Valley Planned District Ordinance (PDO), the issue of hillside protection south of Interstate 8 (I-8) was discussed. The City Council voted to retain the R1-40000 zoning on five sites south of I-8 which are illustrated as Sites A through E on Attachment 1a. The Council also directed the Planning Department to initiate a community plan amendment for keeping the slopes in open space. As described below, the City Manager is proposing that a portion of Sites A through E, and other hillside areas south of I-8, be redesignated to open space on the Mission Valley Community Plan Land Use Map.

The City Manager also identified other amendments to the Mission Valley Community Plan which would improve its accuracy, organization and clarity. These changes include correcting the community plan land use map boundaries, updating the Mission Valley West Light Rail Transit (LRT) alignment and illustrating the specific plan boundaries on the Potential Multiple Use Areas map.

On January 23, 1992, the Planning Commission unanimously approved the Mission Valley Community Plan/General Plan Amendment. Subsequent to the Planning Commission hearing, a Mission Valley property owner questioned some of the proposed revisions to Figure 17 of the Mission Valley Community Plan (see Attachment 1g). As described below under "Light Rail Transit Line", the City Manager is proposing to omit some of the previously-proposed modifications to this map.

## DISCUSSION:

A discussion of the City Manager's open space proposal is provided below followed by a discussion of other proposed changes to the Mission Valley Community Plan. Community plan graphics to be modified are contained in Attachment 1. No changes to the community plan text are proposed.

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Open Space

Sites A through E include steep hillside areas and most also include flatter areas adjacent to Hotel Circle South or Camino del Rio South. The sites are designated Office or Commercial-Recreation, Commercial-Office and Residential/Office Mix by the Mission Valley Community Plan and are zoned R1-40000. The sites are also subject to the Hillside Review Overlay Zone in whole or part. Attachment 1a illustrates the location of Sites A through E and Attachment 3 contains a brief description of each site.

The City Manager does not believe that it is appropriate to designate Sites A through E to open space in their entirety. The flatter portions of the sites are developable similar to adjacent areas subject to the provisions of the Mission Valley Planned District Ordinance and Development Intensity District Ordinance. In evaluating what portion of Sites A through E to recommend for open space designation, the Manager relied on the Mission Valley Community Plan. Page 107 of the community plan calls for all southern slope areas above the 150-foot contour level to be designated open space and restricts locating development above this level (Attachment 4). Thus, the City Manager is recommending that only those portions of Sites A through E above the 150-foot contour level be designated open space. This proposal also involves an amendment to the Progress Guide and General Plan to redesignate the slope areas to open space. If approved, the General Plan Amendment would become effective following the next regularly-scheduled omnibus hearing.

The entire southern border of Mission Valley forms a continuous band of open space. The City Manager believes that any open space designation applied to Sites A through E should be applied in a similar manner along the entire southern hillside area of Mission Valley. Because of this, the Manager is also proposing to designate remaining southern slope areas above the 150-foot contour level to open space (Attachment 1a). These areas are currently designated Office or Commercial-Recreation, Commercial-Recreation, Commercial-Office and Residential/Office Mix by the Mission Valley Community Plan. Zoning of these areas includes MV-CO-CV, MV-CV, and MV-CO per the Mission Valley Planned District Ordinance. These areas are also located within the Hillside Review Overlay Zone with the exception of two small areas. These two remaining areas are not included in this open space proposal because they are permitted limited development under the provisions of the Mission Valley Planned District Ordinance and Development Intensity District Ordinance.

No rezones are proposed as part of the City Manager's open space recommendation. Sites A through E are currently zoned R1-40000 which permits limited residential development. Rezones to permit development on the flatter portions of Sites A through E could be

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considered on a case-by-case basis if proposed by the property owners. However, any development of these areas would be subject to the trip provisions of the Mission Valley Development Intensity District and Planned District Ordinance which would trigger a special permit if over a nominal threshold. In addition, depending on what portion of the site would be impacted by development, a Hillside Review Permit may also be required. Development on the remaining areas above the 150-foot contour level is already severely restricted by the Mission Valley Community Plan, Planned District Ordinance and Development Intensity District Ordinance. Thus, no rezones are considered necessary at this time.

Boundary Adjustments

This amendment to the Mission Valley Community Plan Land Use Map would correct the community boundary line on the southern and eastern sides of Mission Valley to be consistent with adjacent communities and the official Mission Valley boundary line. In addition, the multiple use designation boundary lines would be corrected at two locations on the Mission Valley Community Plan Land Use Map (Attachment 1a).

Light Rail Transit (LRT) Line

Metropolitan Transit Development Board (MTDB) staff has requested that the adopted Mission Valley West Light Rail Transit (LRT) line be illustrated on the Mission Valley Community Plan Land Use Map as well as on Figure 17 of the Plan. MTDB staff believes that illustration of the LRT line on the Land Use Map, together with existing and proposed roads, would present a comprehensive picture of future transportation facilities in Mission Valley. The City Manager concurs with this request and the revised figure is illustrated on Attachment 1a.

MTDB staff also requested that the LRT alignment previously illustrated on Figure 17 of the community plan be updated to illustrate the adopted alignment (Attachment 1g). In addition, MTDB staff proposed revisions to the Intra-Valley Shuttle Bus Route shown on Figure 17. Planning staff originally concurred with these requests and the Planning Commission approved these changes. However, a Mission Valley property owner subsequently questioned the modifications to the Intra-Valley Shuttle Bus Route shown on Figure 17. Upon further review, it was determined that changes to the Intra-Valley Shuttle Bus Route had not been approved by the MTDB Board. Rather, the bus route changes were a prediction by MTDB staff of what is likely to occur. Because of this, the City Manager is recommending that the shuttle bus route previously included on Figure 17 of the community plan be retained. The LRT line would be revised to illustrate the adopted alignment. The proposed Figure 17 is shown on

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Attachment 1g. Attachment 2 illustrates the previously-proposed Figure 17 approved by the Planning Commission.

Specific Plan/Multiple Use Maps

This amendment involves eliminating the specific plan maps from the Mission Valley Community Plan and amending the Potential Multiple Use Areas Map to clearly illustrate the specific plan boundaries. Figures 6 through 9 of the Mission Valley Community Plan illustrate the First San Diego River Improvement Project (FSDRIP), Northside, Atlas and Levi-Cushman Specific Plan areas. These specific plan maps were added for information but changes to the land uses within specific plans do not necessarily require community plan amendments. Therefore, this amendment is proposed to eliminate the potential confusion on the need for a community plan amendment with land use changes in specific plans. The mixed use land use designation for the specific plans remain. The Potential Multiple Use Areas map (Figure 10) is being amended to show the location of each specific plan within Mission Valley and will refer to the individual specific plans for more information (Attachments 1b through 1f). The map will be renamed the Specific Plan/Multiple Use Areas map.

ALTERNATIVES:

1. Designate the five, R1-40000-zoned sites (A through E) to open space in their entirety. Do not redesignate other hillside areas of Mission Valley to open space. Approve other proposed amendments pertaining to boundary adjustments, the LRT line and the Specific Plan/Multiple Use maps as described above.
2. Designate the remaining southern hillside areas within the Hillside Review Overlay Zone to open space in addition to areas above the 150-foot contour level. Although these areas are not allocated development intensity by the applicable ordinances, limited encroachments into the Hillside Review Overlay Zone are currently permitted on severely constrained sites. Approve the proposed amendments pertaining to boundary adjustments, the LRT line and the Specific Plan/Multiple Use maps as described above.

Respectfully submitted,

*Esquivel*  
 Severo Esquivel  
 Deputy City Manager

ESQUIVEL:MLB:WRIGHT:533-3682:avl

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A Hack 29  
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Site A

Size: 8.14 acres (approx.)  
 Location: South of Hotel Circle South just east of the Taylor Street overpass  
 Parcel Nos.: 443-040-29, -30 (por.), -31, -32, -33  
 Ownership: Vincent & Gladys Kobets, Animal Clinic, Facer Coast Development Corp., John Shattuck, Jeffrey Binter  
 Use: Two single-family dwellings, vacant hillsides and flatter areas  
 Community Plan Designation: Office or Commercial-Recreation  
 Zone: R1-40000, some Hillside Review Overlay Zone

Site B

Size: 0.45 acre  
 Location: West of Texas Street, south of Camino del Rio South  
 Parcel Nos.: 438-140-14  
 Ownership: Harold & Helen Sadleir  
 Use: Vacant hillside  
 Community Plan Designation: Commercial-Office  
 Zone: R1-40000/Hillside Review Overlay Zone

Site C

Size: 11.54 acres  
 Location: South of Camino del Rio South, east of I-805  
 Parcel Nos.: 439-080-19 and 439-040-32  
 Ownership: Mission Valley 34th Street, City of San Diego  
 Use: Vacant hillsides with flatter drainage area  
 Community Plan Designation: Commercial-Office, Residential/Office Mix  
 Zone: R1-40000, some Hillside Review Overlay Zone

Attach 29  
P. 8

Site D

Size: 5.81 acres (approx.)  
Location: South of Camino del Rio South, west of I-15  
Parcel Nos.: 439-520-20 and 439-480-24 (part)  
Ownership: Phoenix Mutual Life Insurance, Raymond and Rebecca Willenberg  
Use: Vacant hillside  
Community Plan Designation: Commercial-Office  
Zone: R1-40000/Hillside Review Overlay Zone

(X)  
Pacific Coast  
lot

Site E

Size: 12.72 acres  
Location: South side of Camino del Rio South, east of Fairmount Avenue  
Parcel Nos.: 461-350-03, -04, -06  
Ownership: City of San Diego, National University  
Use: National University parking lots and vacant hillside (CUP in process for a church)  
Community Plan Designation: Commercial-Office  
Zone: R1-40000, some Hillside Review Overlay Zone

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9. What are the proposed public improvements?

F. DEVELOPMENT PERMIT AND POLICY APPROVAL PROJECT INFORMATION  
Respond to the following questions if your preliminary review will include issues involving land use or property development regulations, such as subdivisions, use permits land use plan amendments, etc.

1. Which Community Planning area is the project located within? ... Mission Valley and Normal Heights (ACCORDING TO THE PARCEL INFORMATION CHECKLIST)

2. Will the request include a Community Plan Amendment?  Yes  No

If yes, please describe the amendment:

3. What is the base zone of the project premise (include the name of the Planned District, if applicable)?  
Mission Valley Planned District-Commercial Office (MVPD-CO)

4. Does the project site have any structures that are over forty-five years old?  Yes  No

5. Could the premises be historically significant for any reason?  Yes  No

If yes, please explain:  
The Parcel Information Checklist shows that the property contains historical resources, but there are no structures on the property. Is this just an error?

6. Is your project located in an area of sensitive biological resources, the City's Multiple Habitat Planning Area (MHPA), a wetland area, etc?  Yes  No

7. Will your project generate new storm water runoff?  Yes  No

8. Will there be a request for Rezone?  Yes  No

If Yes, what zone is proposed?

9. Proposed Parking Ratio: 2:1000 sf

10. List any deviation or variance (explain):  
The applicant is requesting a deviation from Code Section 103.2107(3)(A) regarding no development above the 150-foot contour line

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Attch 30  
P. 2

**C. GENERAL PROJECT INFORMATION**

1. Project Address: Carmel del Rio South

2. Assessor's Parcel Number(s) (APN): 439-480-24 Parcel Size: 5 acres

3. Legal Description: Lot 1 of NAGEL TRACT UNIT NO 2 SUBDIVISION according to Map No. 4737

4. Existing Use: Vacant Land

5. Proposed Use (Check all that apply):  Single Dwelling  Multiple Dwelling (no. of units \_\_\_\_\_)  
 Commercial  Industrial  Scientific Research  Office  Other: \_\_\_\_\_

Describe the use:  
Medical office

6. Project Description:  
See attached.

7. Describe Project Background (what and when was the last development activity on the site)?  
The project site is vacant. There has been no development activity on the site.

8. List all permits/approvals related to the project (e.g., board of appeals approvals, lot line agreements, easement agreements, building restricted agreements, development permits, policy approvals, subdivision approvals, or other special agreements with the city), if any:  
  
Open space easement with the City of San Diego recorded December 17, 1982 as Instrument No. 82-386778

9. Does the project include new construction? .....  Yes  No  
If Yes, what is the proposed Height/Number of Building Stories: 2 stories

10. Does the project include an interior remodel (tenant improvement)? .....  Yes  No

11. List any requested permits, actions or approvals:  
Site Development Permit and a Mission Valley Development Permit.

City of San Diego  
DEVELOPMENT SERVICES DEPARTMENT  
LAND DEVELOPMENT REVIEW DIVISION  
1222 First Avenue, Mail Station 501  
San Diego, CA 92101  
(619) 446-5460

INITIAL STUDY  
Project No. 54384  
SCH No. 2005091022

**SUBJECT:** PACIFIC COAST OFFICE BUILDING: SITE DEVELOPMENT PERMIT to construct an approximately 9,845 square-foot, two-story office building on a vacant 4.94-acre parcel. The project is located just east of the terminus of Scheidler Way, in the Mission Valley Planned District within the Mission Valley Community Planning area (Lot 1 of Nagel Tract Unit No. 2 Subdivision, Map 4737).

**UPDATE:** **March 5, 2007:** On September 26, 2006, an environmental appeal on the project was before the City Council. City Council granted the appeal and set aside the environmental determination and remanded the matter to the previous decision maker (the Planning Commission). In addition, City Council directed staff to provide additional information in the document regarding the various project designs that had been considered by the applicant, to allow the public to review the project's design process, and to provide for public input through the document recirculation process.

Therefore, based on City Council's direction, this information has been provided and this Mitigated Negative Declaration has been recirculated for public review and input.

I. PURPOSE AND MAIN FEATURES:

**BACKGROUND:**

*Site History*

In 1961, a subdivision map was recorded which created two lots. Lot 1 is the subject parcel proposed for development. Lot 2, located at 3511 Camino Del Rio South, is currently developed with a commercial office building. The map also

reserved the panhandle portion of Lot 1 for a future street. The site is legally described as Lot 1 of Nagel Tract Unit No. 2, Map No. 4737 (Attachment 8).

In March 1977, the Mesa Mortgage Company submitted an application for a Planned Commercial Development Permit (PCD NO. 35) and Rezone from R-1-40 (Single Family on minimum 40,000 square foot lots) to CO (Commercial Office), to allow development of the lower 1.08-acre northerly (22%) portion of the site with a three and one-half story, 10,000 square-foot office building, parking and landscaping. In July 1977, the Planning Commission recommended denial of the approval of the project.

The Planning Commission's decision was appealed to the City Council. In December 1977, the Council voted 5-3-1 to approve the project that was previously denied by Planning Commission. City Council approved PCD No. 35, Rezoning Ordinance No. 12262, and Rezoning Map noted. In addition, the project was conditioned to require an open space easement be provided on the remaining southerly 3.89-acre portion of the site, which represented approximately 78% of the parcel area. This portion, located within the prior Hillside Review (HR) Overlay Zone, remained zoned RS-1-40 (now RS-1-1)). The City also accepted the dedication of the narrow panhandle portion of the parcel for a street (Schiedler Way), as reserved on the above mentioned subdivision map, to provide vehicular access to the subject parcel and also to properties located adjacent to the north and west.

Due to an airplane accident in which four employees and the President of the Mesa Mortgage Company (the previous applicant) were killed, the City's Planning Director granted an extension of time of 24 months to use the PCD No. 35, in July 1979 and again in April 1982.

In 1982, the City accepted the dedication of the southerly 3.89-acre portion of the parcel as an open space easement, as required by condition of the PCD previously described. However, the lower 1.08-acre portion of the property zoned CO remained undeveloped and the permit eventually expired.

In 1985, the City Council approved the Mission Valley Community Plan (MVCP). The Plan designated the southerly slopes in this area as open space. From 1990 to 1992, amendments to this Plan were approved which included restrictions on development located above the 150-foot elevation/contour line to be preserved as open space. The Plan states that "large scale development at the base of slopes should not cut or grade nor extend above the 150 contour line on the south

slopes." The plan then further provides design recommendations and guidelines for hillside development.

In 1990, the Mission Valley Planned District Ordinance (MVPDO) was adopted. This

Ordinance includes regulations pertaining to the subject property, which requires a Mission Valley Development Permit (processed as a Site Development Permit) to be approved or denied, by Hearing Officer, in accordance with Process Three, for a proposal containing "steep hillsides" as defined in the Land Development Code Section 113.0103, south of Interstate 8.

In November 2004, the Pacific Coast Office Building project was submitted for discretionary review. After preparing an Initial Study, EAS staff determined that an MND was the appropriate environmental document for the project. The Initial Study, contained in MND No. 54384, identified potentially significant but mitigable impacts in the issue areas of land use/MSCP, biological resources, and paleontological resources. The Initial Study also addressed geologic conditions, human health/public safety, historical resources, and water quality. (Prior to preparing the Initial Study, staff also evaluated potential impacts in all of the issue areas listed in the MND's Initial Study Checklist.)

#### Hearing Officer Decision

The project was first heard on November 2, 2005. Testimony was taken from both opposition and proponents of the project. Based on questions raised during the testimony, the Hearing Officer continued the project to allow environmental staff the opportunity to revise the Mitigated Negative Declaration (MND No. 54384) and/or to clarify specific issues that were raised during the public testimony regarding potentially significant impacts to Biological Resources, Landform Alteration/Visual Quality, Development Feature/Visual Quality, and Land Use. In addition, as disclosed in the Final MND No. 54384, dated March 31, 2006, staff added clarifying information with respect to the proposed retaining walls. Staff concluded that the changes to the MND would not affect the environmental analysis or conclusions contained in the document, no new significant impacts had been identified, and no new mitigation was required. Therefore, recirculation of the document for public review was not required in accordance with the California Environmental Quality Act (CEQA), Section 15073.5 (c)(4). On April 19, 2006, the Hearing Officer approved the Site Development Permit No. 158004 and certified the Mitigated Negative Declaration (MND) No. 54384.

**Planning Commission Decision**

The project was appealed to the Planning Commission and on June 15, 2006 the Planning Commission denied the appeal and upheld the Hearing Officer's decision to approve the Site Development Permit and certify MND No. 54384.

**City Council Decision**

On September 26, 2006, an environmental appeal on the project was before the City Council. City Council granted the appeal and set aside the environmental determination and remanded the matter to the previous decision maker (the Planning Commission). In addition, City Council directed staff to provide additional information in the document regarding the various project designs that had been considered by the applicant, to allow the public to review the project's design process, and to provide for public input through the document recirculation process.

Therefore, based on City Council's direction, this information has been provided and this Mitigated Negative Declaration has been recirculated for public review and input.

**Project Design History**

The process of project design is a progression from initial concepts shaped and changed by constraints of feasibility and code compliance. A number of building designs were contemplated and reviewed by the applicant and Development Services staff. Review of alternative project designs by City staff took place from January 2004 when a preliminary review was submitted through June 2005 when the proposed project design was submitted to the City. Through the discretionary review process and in meetings with various sections (i.e., Fire Rescue Department, Landscape Section, and Long-range Planning), the applicant modified the project several times to create a design that allowed reasonable commercial development of the MV-CO zoned portion of the project site while maintaining compliance with the municipal code and respecting the steep hillside guidelines for development.

**Preliminary Review Design**

The applicant attended a preliminary review session with City staff on January 20, 2004. This was the first time a proposal for development of this site was brought to

the city since enactment of the Mission Valley PDO and Mission Valley Community Plan. The applicant asked questions regarding general development issues such as feasibility, process level, and code compliance. As part of the preliminary review submission, a rudimentary design of the project was included. Although not mandatory for preliminary review, it is encouraged by staff to include a design to assist in understanding the scale and scope of the proposal. This design which placed the building at the lowest portion of the MV-CO zoned section of the site was created by the applicant prior to any guidance from Development Services Department staff as to features, layout, or code compliance.

Features of this preliminary design included a 12,000-square-foot, three-story structure located at the lowest corner of the MV-CO zoned portion of the property. The building would start at approximately 144 feet above Mean Sea Level (AMSL) and would be 39 feet high. A single large flat parking lot beginning at the edge of the building would extend out to Scheidler Way, providing 49 parking spaces. Since this was only a preliminary design no formal design was completed and cut and fill quantities were not calculated. The maximum height of the development would extend to approximately 183 feet AMSL (33 feet above the 150-foot contour) [Figures 3 and 4].

#### *First Submission Design*

The first formal project submittal by the applicant was on November 20, 2004. The site design was altered to incorporate a slightly smaller building of 10,000 square feet. The building proposed two stories instead of three. In addition, changes were incorporated into the parking area to allow the necessary fire truck access and hammerhead turn around. This design provided 37 parking spaces. The applicant attempted to maintain first floor building and parking level at or below 150 foot contour line in order to minimize issues with the 150 foot height recommendation.

With this proposal, Development Services Department staff reviewed the project for compliance with the Steep Hillside Guidelines for the first time. The plan would have placed the building on the lowest portion of the site but this advantage would be offset by the noncompliance of many other Steep Hillside design guidelines. Specifically, the guidelines recommend reducing visual impacts by designing the project to follow the topography of the site and follow the natural landform. Instead, this proposal incorporated a flat single-level parking lot and flat development pad. This design also conflicted with the recommendations in that the upper floors were not stepped back, and the structure was minimally set

into the hillside. Also absent were design features such as tuck under parking, multiple smaller parking lots on different levels, or incorporation of retaining walls in the structure itself. Furthermore, the retaining wall height of the single monolith walls conflicts with height limitations for retaining walls adjacent to open space as well as height of retaining walls in setbacks. Additional noncompliance was cited with driveway access not perpendicular with the sidewalk. The grading needed for this preliminary design was estimated at approximately 2,350 cubic yards of cut and 1,250 of fill. A total of 0.70 acres of development area was proposed with approximately 0.17 acres (23 percent) below the 150 foot contour line and 0.54 acres (77 percent) above the 150 foot contour line. Retaining walls, parking and almost half the building would be below the 150 foot contour line. The remainder of the retaining walls, parking and the rest of the building would be above the 150 foot contour line. The lower level of the building would have been at roughly 136 feet and the approximately 52-foot tall building would have extended to approximately 188 feet. This design would be 0.10 acre smaller than the proposed project. Retaining walls proposed would extend over 30 feet tall (Figures 5 and 6).

Although this proposal would have placed the building on the lowest portion of the site and would have had lower earthwork quantities, it was determined to not be in compliance with the Steep Hillside Guidelines. Specifically, the guidelines recommend reducing visual impacts by designing the project to follow the topography of the site and follow the natural landform. Instead, this proposal incorporated a flat single level parking lot and flat development pad. The design also conflicted with the guidelines in that the upper floors were not stepped back, and the building would be minimally set into the hillside

Furthermore, the height of the monolithic retaining walls on the north and south of the development conflicts with height limitations for retaining walls adjacent to open space as well as height of retaining walls in setbacks. Additional noncompliance was cited with driveway access not being perpendicular with the sidewalk. Due to the multiple conflicts, it was determined that Development Services Department staff could not support this design.

### *Second Submission Design*

Revisions were made to the project based on issues raised by Development Services Department staff and a second design submittal took place on May 25, 2005 which was similar to the current proposal with the exception of brush management zones, landscape palate, and a few other minor changes.

Revisions included elevating the building higher on the hillside to allow for a tiered structure with tuck under parking. The building was set further into the hillside and the façade of the second floor was stepped back. With movement of the building to the west and closer to Scheidler Way, the need for fire truck turn-around was eliminated. The retaining walls were stepped and individual wall heights reduced to be in compliance with the Land Development Code regulations. In terms of building location, this site plan closely resembles the original approved site plan from 1979.

The addition of alternative design features as discussed above directly increased the amount of earthwork. However the larger earthwork quantities were considered by Development Services Department staff to be an acceptable tradeoff since they allowed increased compliance with Steep Hillside Design guidelines. Total estimated quantities were 6,300 cubic yards of cut and 2,600 cubic yards of fill with 3,700 cubic yards exported offsite. The development footprint for this plan is also slightly larger than the previous submittal with 0.80 acre total development area with approximately 0.14 acre (6 percent) below the 150 foot contour and 0.66 acre (94 percent) above the 150 foot contour. A portion of the proposed retaining walls (approximately 703 linear feet) and driveway would be located in the narrow area below the 150 foot contour; while the remaining driveway, retaining walls (approximately 817 linear feet), and the building would be situated above the 150 foot contour. The tuck under parking would start at about 160 feet AMSL and the structure height would be approximately 39 feet with the roof at about 199 feet AMSL.

#### *Additional Designs Evaluated by the Applicant*

During the course of development design additional site plans were considered. An analysis of these alternate designs is next described.

##### *1. Single Story Building Design*

A single story structure was evaluated (Figures 7 and 8). The footprint of the building would be approximately 10,000 square feet. The building would be placed in the same locale as the current project, but would extend further to the east. This would allow divided tiered parking pads which would conform to the hillside. Due to expanding the building footprint to the east, less upper tier parking is available within the MVCO portion of the site and the entire development footprint would need to extend further eastward to compensate. This would

increase impacts to land above the 150 foot contour. Total development would be approximately 0.90 acre. The development area below the 150 foot contour would be approximately 0.17 acre (20 percent) and above the 150 foot contour would be approximately 0.72 acre (80 percent). The area below the 150 foot contour would include some retaining walls and some driveway. The remainder of the retaining walls, driveways, and the building itself would be located above the 150 foot contour. The number and style of required retaining walls would be similar to those proposed with the current project. However, increased length of retaining walls would be required. Additionally, unlike the proposed project, this plan would expose approximately 15 feet of retaining walls above the entire length of the building. Earthwork quantities were estimated at approximately 10,000 cubic yards of cut and 3,500 cubic yards of fill. This alternative would allow for 37 parking spaces.

## *2. Subterranean Parking Design*

A two-story structure over subterranean parking was also evaluated (Figures 9 and 10). This design allowed parking for 37 spaces. This plan would reduce overall hillside disturbance and decrease impacts to land above 150 foot contour. The total development area would be approximately 0.58 acre of which 0.07 acre (16 percent) would be below the 150 foot contour and 0.49 acre (84 percent) above the 150 foot contour. The lowest parking level would be at approximately 144 feet below the building. The first floor would be at 156 feet and the 33-foot tall structure would have its roof at 189 feet AMSL. As previously, a portion of the retaining walls and driveways would be below the 150 foot contour and the remainder of the driveways, retaining walls and the building itself would be above the 150 foot contour. However, this design would require excavation of the hillside to a depth of over 60 feet. Due to the depth of excavation earthwork quantities would be about 170,000 cubic feet of cut and 500 cubic feet of fill. Export of 165,000 cubic feet of soil would be required. It was determined by the applicant that both from an engineering and financial perspective, this option was not feasible.

## *Current Proposed Design*

The current proposed project has eliminated the need for brush management zones through fire resistant building design and is described in detail in the MND's project description. This is a modification of brush management which has been approved by the fire department representative due to the other fire safety features designed into the building such as sprinklers and fire rated exterior walls.

PROJECT PURPOSE AND MAIN FEATURES:

The project would allow the construction of an approximately 9,845 square-foot, two-story office building with tuck under parking on a vacant 4.94-acre parcel (Figures 11 - 13). Both commercial and medical office uses are proposed with approximately 5,463 square feet of medical office space being provided on the first floor and 3,960 square feet of commercial office space on the second floor. The remaining 462 square feet is for the mechanical rooms located on the lower parking level. The exterior treatments proposed are stucco, natural stone, and glass.

The office building would be constructed on the northern portion of the site (approximately 1.05 acres). The southern portion of the site, (approximately 3.89 acres and outside of the proposed development footprint area) is located within an existing open-space easement. This remaining portion of the site would continue to be maintained as open space and no development is proposed.

The project would construct a 26-foot-wide driveway, the minimum required for fire access, which would be accessed via Scheidler Way. Thirty-six parking spaces would be provided on site, with approximately twenty parking stalls being provided at grade in a tuck-under parking area located along the northern side of the building. The remaining sixteen parking stalls would be located on a second-level parking area located on the eastern side of the building.

Approximately 0.83 acre would be graded. Earthwork quantities associated with site grading are estimated at approximately 6,300 cubic yards of cut and 2,600 cubic yards of fill, with an export amount of 3,700 cubic yards. The project design includes the construction of several retaining wall types: soil-nailed shotcrete, concrete masonry unit (CMU), and crib walls (keystone type). Five soil-nailed shotcrete walls are proposed along the southern side of the project. The soil-nailed shotcrete walls vary in length from approximately 99 feet to 178 feet. Three crib walls are proposed along the northern side of the project. The crib walls vary in length from approximately 192 feet to 393 feet. In addition, a CMU retaining wall, approximately 103 feet in length, is proposed behind the building. The walls would be stepped and range in height from approximately two feet through ten feet and allow for landscape treatments to be utilized. The walls would be a sandstone (tan) color and plantable. A mix of vines, shrubs, and accent shrub plantings are proposed along the perimeter and tops of the walls.

Development would extend from the northern property line at approximately 145 feet AMSL up to approximately 200 feet AMSL. The proposed building footprint would start at approximately 160 feet AMSL and would have a maximum height of 38.7 feet with the roof to approximately at 199 feet AMSL. All of the proposed project area is currently vacant land and as previously stated, an Open Space easement of approximately 3.89 acres (approximately 80% of the entire 4.94 acre parcel) is recorded for the eastern and southern most, upslope portion of the property. No development would take place in the Open Space Easement, which corresponds to the RS-1-1 zone portion of the property.

Due to the severe limitation of designated commercial space area, the development would extend into the community plan designated open space area.

Approximately 5,992 square feet (0.14 acre) or 18.5 percent of the project would be within the community plan designated commercial area below the 150 ft contour line. This would consist of retaining walls, trash enclosure, and driveways.

Approximately 28,669 square feet (0.66 acre) or 82.5 percent of the project would be above the 150 ft contour line in the community plan designated open space area. This would include the remainder of the retaining walls and driveways, parking areas, and the entire building footprint.

The proposed landscaping has been reviewed by City Landscape staff and would comply with all applicable City of San Diego landscape ordinances and standards.

The landscape planting consists of shade, street, and courtyard trees (Australian Willow, Brisbane Box, and Queen Palm); shrubs (Green New Zealand Flax, Fortnight Lily, Tasmanian Tree Fern, Kaffir Lily, and Impatiens); vines (Blood-red Trumpet Vine, Creeping Fig, and Star Jasmine); various groundcovers (Trailing Rosemary, Needlepoint Ivy, Pink Myoporum, and Ivy Geranium); and a non-invasive hydroseed mix would be planted along the parameters of the property. An approved irrigation system would be installed.

## II. ENVIRONMENTAL SETTING:

The rectangular, undeveloped 4.94-acre project site is located south of Interstate 8, within the 5300 block of Scheidler Way (Figures 1 and 2) in Mission Valley. The parcel is located just east of the terminus of Scheidler Way, a short stub street extending south from Camino Del Rio South. Topographically, the property is characterized by north-facing, steeply sloping land with a gradient ranging from approximately 1.6:1 to 2:1 (horizontal:vertical). Site elevations in the area of development vary from a high of approximately of 200 feet AMSL along the

southern portion to a low of approximately 136 feet AMSL at the top of an existing retaining wall on the north.

Vegetation on site primarily is native, consisting of Diegan Coastal Sage scrub. The City of San Diego Multiple Species Conservation Program Subarea Plan maps the project site as coastal sage scrub. Although the project site is not within the Multi-Habitat Planning Area (MHPA), an area of MHPA open-space exists approximately 150 feet uphill and south of the project site. In addition, the southern portion of the site, approximately 3.89 acres outside of the proposed development area, is located within an existing open-space easement. Approximately 1.05 acres of the site is zoned MV-CO (Commercial-Office) along the northerly boundary and the remaining area zoned RS-1-1 (Single Family Residential).

The project site is split designated in the Mission Valley Community Plan. The Commercial Office designation applies to the portion of the parcel below the 150 foot contour with the remainder of the site above the 150 foot contour within open space designation. The total commercially designated area of the site is approximately 8,811 square feet (0.20 acre). This is spread over a narrow parhandle shaped sliver of land following the northernmost property line. It connects to Scheidler Way to the west and varies in width between 6 feet and 12 feet until it opens to a roughly triangular shaped segment to the east of approximately 5,220 square feet (0.12 acre).

There is another small triangular portion of land in the far north east corner of the site within the RS-1-1 zone that is below the 150 foot contour line. This measures approximately 6,596 square feet (0.15 acre). This area has no direct access from either the MV-CO zoned portion of the site or from any public right of way. This area is included in the Open Space Easement along with the remainder of the parcel at 150 feet AMSL and higher. The Open Space easement area totals approximately 4.63 acres.

Adjacent land uses are residential properties near the top of the hillside in the community of Normal Heights to the south, commercial- office uses on the north, and commercial-office uses and open space on the east and west. Access to the subject property would continue to be from Scheidler Way.

III. ENVIRONMENTAL ANALYSIS: See attached Initial Study checklist.

IV. DISCUSSION:

The project files and reports referred to below are available for public review on the Fifth Floor of the Development Services Department, Land Development Review Division, 1222 First Avenue, San Diego, CA 92101.

*During the environmental review of the project, it was determined that construction could potentially result in significant but mitigable impacts in the following area(s).*

BIOLOGICAL RESOURCES

A biological report was prepared by Helix Environmental Planning, Inc., (revised December 2, 2005) in order to assess the vegetation communities and identify potential biological impacts of the proposed project.

As previously discussed within the Environmental Setting section, the project site is approximately 4.94 acres in size. The proposal is to construct a two-story office building. The project site is located within the City of San Diego's Multiple Species Conservation (MSCP) Subarea. Although the project site is not located within the Multi-Habitat Planning Area (MHPA), an area of MHPA open space exists near the cul-de-sac of Cromwell Court within the Normal Heights neighborhood, approximately 150 feet uphill and south of the project site. In addition, approximately 3.89 acres located in the southern portion of the project site is within an existing open-space easement. The development would occur along the lower northern portion of the slope (approximately 1.05 acres), within the southern portion of the site. No encroachment of the development footprint would occur within the existing open space easement.

Five vegetation communities occur on site: 4.61 acres of Diegan coastal sage scrub (CSS) [Tier II]; 0.15 acre of non-native grassland (NNGL) [Tier IIIB]; 0.82 acre of eucalyptus woodland (Tier IV); 0.04 acre of disturbed habitat; and 0.03 acre of urban/developed (Tier IV). No wetlands or vernal pools occur on the project site. No narrow endemics were observed onsite.

Direct impacts would result with construction of the proposed project. The project would impact Diegan coastal sage scrub, non-native grassland, eucalyptus woodland, disturbed habitat, and urban developed. Table 1 has a summary of the habitat impacts according to vegetation community. Approximately 0.64 acre of Diegan coastal sage scrub would be impacted. According to the City of San Diego Biology Guidelines (2001), impacts to Tier II (uncommon uplands) that occur

outside of the MHPA, as in this proposal, can be mitigated either within or outside of the MHPA. If mitigated within the MHPA the ratio would be 1:1 and if mitigated outside the MHPA that ratio would be 1.5:1.

Approximately 0.10 acre of non-native grassland would be impacted. According to the City of San Diego Biology Guidelines (2001), impacts to Tier IIIB (common uplands) that occur outside of the MHPA, as in this proposal, can be mitigated either within or outside of the MHPA. If mitigated within the MHPA, the ratio would be 0.5:1 and if mitigated outside the MHPA the ratio would be 1:1.

Eucalyptus woodland, disturbed habitat and urban developed are all considered Tier IV habitats (other upland) per the City of San Diego Biology Guidelines (2001) and impacts would not require mitigation.

Table 1

PROJECT IMPACTS TO VEGETATION COMMUNITIES		
Vegetation Community	Tier	Grading Impacts
Diegan coastal sage scrub	II	0.64
Non-native grassland	IIIB	0.10
Eucalyptus woodland	IV	0.04
Disturbed habitat	IV	0.03
Urban/Developed	IV	0.02
TOTAL		0.83

All areas are presented in acres rounded to the nearest 0.01

Proposed grading impacts total approximately 0.64 acre of Diegan CSS (roughly 14 percent of the existing 4.61 acres of CSS) and 0.10 acre of NNGL (roughly 66 percent of the existing 0.15 acre of NNGL), refer to Table 2 below. Per the City of San Diego Biology Guidelines (2001), a 1:1 mitigation ratio for impacts to Diegan CSS and a 0.5:1 ratio for the NNGL are required. The resulting mitigation required for project impacts would include 0.64 acre of Diegan coastal sage scrub and 0.05 acre of NNGL, for a total of 0.69-acre equivalent contribution to the City's Habitat Acquisition Fund.

Table 2

MITIGATION REQUIREMENTS FOR PROJECT IMPACTS				
Vegetation Community	Tier	Impacts	Mitigation Ratio	Required Mitigation
Diegan coastal sage scrub	II	0.64	1:1	0.64
Non-native grasses	IIIB	0.10	0.5:1	0.05
TOTAL	--	0.74	--	0.69

All areas are presented in acres rounded to the nearest 0.01. It has been assumed that all mitigation would occur within the MHPA; if mitigation were to occur outside of the MHPA, the mitigation ratio for CSS would be 1.5:1 and the mitigation ratio for NNGL would be 1:1.

Although seven animal species were detected during the survey (including six birds and one mammal), no sensitive, threatened, or endangered animal species were observed onsite. Although no coastal California gnatcatchers were detected, they have the potential to occur onsite due to the presence of Diegan CSS. Therefore, if construction is scheduled to take place adjacent to the MHPA during the breeding season, a biologist would be required to conduct protocol surveys to determine the presence and/or absence of these species in the MHPA prior to construction. If the survey is negative, no further mitigation would be required. If the survey is positive, mitigation in the form of temporary noise barriers and acoustical monitoring would be required. Additional measures, such as construction restrictions would be implemented as necessary to ensure that noise levels at the edge of occupied habitat in the MHPS do not exceed 60 dB(A) hourly average.

In addition, a red-tailed hawk was observed flying over the site and the eucalyptus woodland habitat has the potential to be utilized by raptors for perching and/or nesting sites. Direct impacts would be avoided through compliance with the Migratory Bird Treaty Act. Noise impacts to nesting raptors would be avoided during the breeding season through preconstruction surveys and adherence to appropriate noise buffer zone restrictions.

Therefore, a Mitigation, Monitoring and Reporting Program as detailed in Section V of the MND would be implemented. With implementation of the Mitigation,

Monitoring and Reporting Program, impacts to biological resources would be reduced to below a level of significance.

LAND USE - MULTIPLE SPECIES CONSERVATION PROGRAM (MSCP)

As previously described within the Biological Resources section discussion, the project site is within the City of San Diego's Multiple Species Conservation Program Subarea. Although the project site is not directly adjacent to the MHPA, a portion of the MHPA is approximately 150 feet uphill and south of the project site. Therefore the project would be required to comply with the MHPA Land Use Adjacency Guideline (Section 1.4.3) of the City's MSCP Subarea Plan to ensure that the project would not result in an indirect impact to the MHPA.

The project footprint would not be allowed to encroach into the MHPA nor into the open space easement, and project issues pertaining to lighting, noise, invasives, and drainage must not adversely affect the MHPA. More specifically, all proposed lighting adjacent to the MHPA, as well as open-space areas, would be directed away from these areas, and shielded as necessary. Landscape plantings would consist of either native plant species or non-invasive ornamental plant species. Drainage would be directed away from the MHPA and must not drain directly into these areas. No staging and/or storage areas would be allowed to be located within or adjacent to sensitive biological areas and no equipment maintenance would be permitted. In addition, the limits of grading would be clearly demarcated by the biological monitor to ensure no impacts occur outside of the approved development footprint.

Due to the site's proximity to Diegan CSS in the MHPA, indirect noise impacts related to construction must be avoided during the breeding season of the costal California gnatcatcher (March 1 through August 15). Therefore a Mitigation Monitoring Reporting Program (MMRP), as detailed within Section V of the MND would be implemented to minimize indirect noise impacts to a level below significance. As a condition of the MMRP, if grading is proposed during the breeding season, a preconstruction survey would be required in order to determine the absence and/or presence of the species. If the survey is negative, no further mitigation would be required. If the survey is positive, mitigation in the form of temporary noise barriers and acoustical monitoring would be required.

Based upon the proposal and the required compliance with the Land Use/MSCP mitigation measures contained in Section V of the MND, the project has been

found consistent with the MHPA land use adjacency guidelines of the City of San Diego MSCP Subarea Plan and all impacts reduced to below a level of significance.

#### PALEONTOLOGICAL RESOURCES

According to the "Geology of the San Diego Metropolitan Area, California, La Mesa, 7<sup>1/2</sup> Minute Quadrangle (Kennedy and Peterson, 1975), the majority of the project area is underlain by Alluvium, Stadium Conglomerate, and the Mission Valley Formation. With respect to fossil resource potential, Alluvium has a low sensitivity level and monitoring would not be required. Both Stadium Conglomerate and the Mission Valley Formation are categorized as having a high sensitivity level for paleontological resources.

The Stadium Conglomerate is the lowermost formation of the Poway Group and is made up of three distinctive units. Both the upper and lower conglomerate units are located within the Mission Valley area, whereas, the Cypress Canyon Unit is located further north. Fossil foraminifers and marine mollusks have been collected from the upper member conglomerate. The upper member is largely non-marine in the eastern part of its outcrop area. It has been noted that marine fossil remains occur near the base of the lower member. The majority of the fossils recovered from the lower member were found in either claystone rip-rap or in the sandy matrix characteristic of certain channel-fill deposits in this rock unit.

The marine strata of the Mission Valley Formation have produced abundant and generally well-preserved remains of marine micro-fossils, macro-invertebrates, and vertebrates. Fluvial strata of the Mission Valley Formation have produced well-preserved examples of petrified wood and fairly large and diverse assemblages of fossil land mammals including opossums, insectivores, bats, primates, rodents, artiodactyls, and perissodactyls. The co-occurrence in the Mission Valley Formation of land mammal assemblages with assemblages of marine micro-fossils, mollusks, and invertebrates is extremely important as it allows for the direct correlation of terrestrial and marine fauna time scales. The Mission Valley Formation represents one of the few instances in North America where such comparisons are possible.

Construction of the project requires approximately 6,300 cubic yards of soil cut and grade cut depths of approximately 23 feet. According to the City of San Diego's Paleontological Guidelines (Revised April 2004), over 1,000 cubic yards of grading at depths of greater than 10 feet into formations with a high resource sensitivity rating would constitute a potentially significant impact to paleontological resources, and

mitigation is required. Disturbance or loss of fossils without adequate documentation and research would be considered a significant environmental impact. Therefore, a Mitigation, Monitoring and Reporting Program as detailed in Section V of the MND would be implemented. The program would require that a qualified Paleontologist or Paleontological Monitor be present during all excavations that exceed ten feet in depth and that could impact previously undisturbed formations. Should paleontological resources be discovered, a recovery and documentation program would be implemented. With implementation of the Mitigation, Monitoring and Reporting Program, impacts to paleontological resources would be reduced to below a level of significance.

*The following environmental issues (GEOLOGIC CONDITIONS, HISTORICAL RESOURCES, LANDFORM ALTERATION/VISUAL QUALITY, LAND USE, AND WATER QUALITY) were considered in depth during review of the project. No significant impacts were identified.*

#### GEOLOGIC CONDITIONS

According to the City of San Diego Seismic Safety Study, the site is mapped within Geologic Hazard Category 53. Hazard Category 53 represents level or sloping terrain with an unfavorable geologic structure with a low to moderate risk potential. In order to assess potential geologic hazards affecting the site, a soils and geologic reconnaissance was prepared by Geocon, Inc. (*Soil and Geologic Reconnaissance, Mission Valley Medical Office Building Scheidler Way, San Diego, California, November 26, 2004*).

According to the report, the project site is a rectangular-shaped, undeveloped 4.94-acre parcel. The project site is steeply sloping land with gradient ranging from approximately 1.6:1 to 2:1 (horizontal: vertical). Site elevations range from a high of approximately 340 feet AMSL at the southern property line to a low of approximately 136 feet AMSL at the top of an existing retaining wall on the northern property line. Approximately 4.93 acres or 99.8 percent of the site is steep slopes (> 25percent).

Based on the site reconnaissance and review completed, it was determined that the site is underlain by a layer of surficial soils in the form of topsoil (with an estimated thickness of ranging from three to five feet) which overlies Eocene-age Stadium Conglomerate. Groundwater related hazards are not expected to affect the site. There are no faults known to exist on the site. Based on the geotechnical evaluation including area seismicity, on-site conditions, and the observed lack of groundwater, the project site is considered to have a relatively low risk potential

for soil liquefaction. Slope failure and/or land sliding potential was considered low due to the competent nature of the formational deposits. Based on the results of the studies conducted, the geotechnical consultant concluded that there is no geotechnical related condition at the project site that would preclude development as presently proposed, provided that the recommendations within the report are implemented. The City's Geology Section staff have reviewed the referenced reports and concluded that the preliminary geotechnical reports adequately addressed the geologic conditions potentially affecting the project site. Therefore, proper engineering design and utilization of standard construction practices, to be verified at the building permit stage, would ensure that the potential for impacts from regional geologic hazards would be less than significant, and no mitigation measures are deemed necessary.

#### HUMAN HEALTH/PUBLIC SAFETY

Brush Management is required for development that is adjacent to any highly flammable area of native or naturalized vegetation. These fire hazard conditions currently exist for the proposed open space area to the south side of the proposed development. Where brush management is required, a comprehensive program is required to reduce fire hazards around all structures by providing an effective fire break between structures and contiguous area of flammable vegetation. The fire break is required to consist of two distinct brush management zones; a 35-foot-wide brush management zone one and a 65-foot-wide brush management zone two are required per the Land Development Code. Per the City of San Diego's Land Development Code Section 142.0412(i), the Fire Chief may modify the requirements of this section if the following conditions exist:

1. The modification to the requirement shall achieve an equivalent level of fire protection as provided by this section, other regulations of the LDC, and the minimum standards contained in the Land Development manual; and
2. The modification to the requirements is not detrimental to the public welfare of persons residing or working in the area.

Due to the steepness of the existing southern slopes on-site, the applicant would be providing alternative compliance in lieu of the required 100 feet of brush management area. The entire structure would have one-hour fire rated construction; a one-hour fire-rated wall/parapet with no openings would be constructed along the southern elevation of the building; the roof would be non-combustible; and lastly, the entire structure would be equipped with a fire

sprinkler system.

Elimination of the brush management zones would not increase hazards to either the building from external fires nor would it increase hazards to adjacent properties from fires started at the site. The measures cited above would allow comparable fire safety as brush management zones in the prevention of building ignition from wildfires originating away from the site. Fires within the building would be suppressed through the buildings sprinkler system which is normally not required for this type of structure. Additionally, the presence of retaining walls covered with irrigated vegetation along the entire southern perimeter of the development would act as a fire break.

Both the City's Landscape and Fire Review Sections have reviewed the proposed alternative brush management compliance and concluded that it adequately addresses the fire safety potentially affecting the project site. The project and the above described project features have been designed in accordance with the City's Landscape Regulations. Compliance with the standards through the above project elements would preclude any impacts to human health and public safety.

#### HISTORICAL RESOURCES (ARCHAEOLOGY)

Many areas of San Diego County, including mesas and the coast, are known for intense and diverse prehistoric occupation and important archaeological and historical resources. The region has been inhabited by various cultural groups spanning 10,000 years or more. The project area is located within an area identified as sensitive on the City's Historical Resources Sensitivity Maps. In addition, several previously recorded historic and prehistoric sites have been identified in the project vicinity. Based on this information, a review by City staff of archaeological maps in the Land Development Review Resources Library indicated that archaeological resources have been identified within a one-mile radius of the project site. Based on this information, staff identified there is a potential for buried cultural resources to be impacted through implementation of the project.

Therefore, an archaeological letter survey report was completed by Kyle Consulting (April 2005). The archaeological letter survey included literature review, record search, and completion of a pedestrian field survey of the project site. As described in the Environmental Setting section, the site is situated on steep slopes above an existing parking lot for several medical art buildings.

Information retrieved as part of the literature review and record search showed that the study area had not been surveyed prior to the current study and that no cultural resources had been recorded. In addition, field surveys were conducted on December 1, 2003 and April 19, 2005. The site consists of steep slopes ranging from approximately 12.5 to 25 percent in the northern portion of the study. Those areas with less than 15 percent slopes were surveyed utilizing transects no wider than ten to twelve meters in distance. Those areas with greater than fifteen percent sloped were not surveyed do to the low probability of the presence of prehistoric or historic resources within these areas.

No cultural resources were identified by the literature review, records search, and field surveys. Although numerous archaeological surveys have been completed within a one-mile radius of the study area, they have only identified an isolated artifact and the San Diego Mission Complex (which is located north of Interstate 8). Archaeological sites associated with the San Diego River Valley generally consist of prehistoric village complexes located on level areas within the river valley.

The letter survey report concluded that with the presence of steep slopes and lack of recorded ore newly identified cultural resources, no additional work is recommended. Therefore, monitoring of the project area is not required.

#### LANDFORM ALTERATION/VISUAL QUALITY

##### *LANDFORM ALTERATION*

The City of San Diego's Significance Guidelines include thresholds for determining potentially significant land form alteration impacts related to grading. Projects that would alter the natural (or naturalized) landform by grading more than 2,000 cubic yards of earth per graded acre by either excavation or fill could result in a significant impact. In addition, one or more of the following conditions must apply:

1. The project would disturb steep (25 percent gradient or steeper) sensitive slopes in excess of the encroachment allowances of the Environmentally Sensitive Lands regulations and steep hillsides guidelines as defined in the LDC;
2. A project would create manufactured slopes higher than ten feet or steeper than a 2:1 gradient; or

3. A project would result in a change in elevation of steep natural slopes (25 percent gradient or steeper) from existing grade to proposed grade of more than five feet by either excavation or fill, unless the area over which the excavation or fill would exceed five feet is only at isolated points on the site.

However, the above conditions would not be considered significant if one or more of the following apply:

1. Proposed grading plans clearly demonstrate, with both spot elevation and contours, that the proposed landforms would closely imitate the existing on-site landform and/or the undisturbed, pre-existing surrounding neighborhoods landforms (achieved through naturalized variable slopes);
2. Proposed grading plans clearly demonstrate, with both spot and contours, that the slopes follow the natural existing landform and at no point vary more than 1.5 feet from the natural landform elevation; or
3. Proposed excavation or fill is necessary to permit installation of alternative design features, such as step-down or detached buildings, non-typical roadway or parking lot design, and alternative retaining wall designs which reduce the project's overall grading requirements.

Grading for the project would require approximately 6,300 cubic yards of cut and 2,600 cubic yards of fill on approximately 0.83 acre of the total 4.94-acre site within areas defined under ESL regulations as stated above. However, the project proposes to tuck the rear of the building into the hillside, utilize tuck under and terraces parking, creating terraced retaining walls, as well as terracing the second story, thereby creating a deck. Therefore, based on the project's use of alternative design features being utilized in order to reduce the project's overall grading requirements, staff determined that there would not be a significant impact to land form alteration. In addition, with implementation of the landscape concept plan, and the above described design features, the site would be visually compatible with surrounding development and no mitigation would be required.

#### *DEVELOPMENT FEATURES/VISUAL QUALITY*

The site is covered with dense vegetation mainly consisting of Diegan Coastal sage scrub on steeply sloping hills (with a gradient of greater than 25 percent). There are limited public views of the northern down slope area of the MV-CO zoned

portion of the property. Along Camino Del Rio South, existing commercial office buildings up to six stories in height substantially screen the proposed development area from both Camino del Rio South and Interstate 8 traffic. There are no identifiable public view corridors along the crest of either the southern or northern Mission Valley Hillsides which would expose the proposed project. However, the upslope portion of the site encompassed by the existing open space easement, which would remain in its natural state is visible from most public transportation corridors.

The City of San Diego's Significance Guidelines include thresholds for determining impacts related to a negative visual appearance for projects which include crib, retaining or noise walls greater than six feet in height and 50 feet in length with minimal landscape screening where the walls would be visible to the public. The project design includes the construction of several retaining wall types: soil-nailed shotcrete, concrete masonry unit (CMU), and crib walls (keystone type). Five soil-nailed shotcrete walls are proposed along the southern side of the project. The soil-nailed shotcrete walls vary in length from approximately 99 feet to 178 feet. Three crib walls are proposed along the northern side of the project. The crib walls vary in length from approximately 192 feet to 393 feet. In addition, a CMU retaining wall, approximately 103 feet in length, is proposed behind the building. The retaining walls would range in height from approximately two feet through ten feet. The exterior wall treatment would be an earth stucco color to blend with the surrounding landform features and planted with a mix of vines, shrubs, and accent shrub plantings are proposed along the perimeter and tops of the walls. In addition, the walls have been terraced; creating planter areas between the walls for proposed landscaping that would further screen them from view.

The proposed landscaping has been reviewed by City Landscape staff and would comply with all applicable City of San Diego landscape ordinances and standards. The landscape planting consists of shade, street, and courtyard trees (Australian Willow, Brisbane Box, and Queen Palm); shrubs (Green New Zealand Flax, Fortnight Lily, Tasmanian Tree Fern, Kaffir Lily, and Impatiens); vines ( Blood-red Trumpet Vine, Creeping Fig, and Star Jasmine); various groundcovers (Trailing Rosemary, Needlepoint Ivy, Pink Myoporum, and Ivy Geranium); and a non-invasive hydroseed mix would be planted along the parameters of the property.

There is limited visibility of the development from the public right of way. The presence of five and six story buildings to the north of the project site on Camino del Rio South effectively screen the building from Interstate 8 and would only allow limited glimpses of the development in passing. The development would be

most visible from Friars Road. Along this public right of way, the building would appear low on the hillside huddled amongst the rooftops and blending with the existing Camino del Rio South buildings. There are no public view corridors from the crest of the northern Mission Valley Hillside or from the community of Serra Mesa. The community of Normal Heights along the southern crests also does not have any public view corridors that would allow the building to be seen. During travel south down Mission Village Drive the development is screened from public view by Qualcomm Stadium. Therefore, due to the small scale of the development and the limited visibility of the structure from the public right-of way, the existing site lines to the southern slopes would not be significantly altered.

Although the retaining walls would exceed the City's threshold as stated above, due to the limited area of visibility from Scheidler Way and Camino del Rio South, portions of the walls would be completely screened by the proposed building and enhanced landscaping. In addition, existing buildings along Camino del Rio South block views of the majority of the project site. Therefore, construction of the proposed walls and building would not result in a significant visual impact.

#### LAND USE

A significant land use impact could occur if a project results in an inconsistency and/or conflict with the environmental goals, objectives and recommendations of the community plan in which a project is located. In addition, certain areas of the City are covered by Planned District Ordinances, which ensure that development and redevelopment is accomplished in a manner that enhances and preserves the well-being of the communities they regulate. An inconsistency with a plan is not in itself a significant environmental impact; the inconsistency would have to result in a secondary environmental impact to be considered significant.

In accordance with state planning and zoning law, the City of San Diego has adopted a Progress Guide and General Plan which provides a comprehensive long-term plan for the development of the City. In addition, the City has adopted community and specific and/or precise plans which provide growth development goals and guidelines for various communities and subareas. These plans include land use elements and also may include design, resource management and environmental elements or goals.

The project site is designated Commercial Office and Open Space within the Mission Valley Community Plan. The Mission Valley Community Plan recommends that building and parking areas should be adapted to the natural

terrain (i.e. trucking into the hillside; utilizing small pad areas; emphasize horizontal orientation; and terracing structures). The Mission Valley Community Plan also recommends that roof areas be designed to minimize disruption of views from crest hillsides and that "large scale development should not extend above the 150-foot contour," which is the boundary of the open-space designation. Community plan policies emphasize to minimizing the disturbance to hillsides and controlling urban form as it relates to hillsides as an aesthetic resource. Given that existing structures on abutting parcels are up to 71,000 square feet in floor area and average 30,000 square feet, it was determined by the Planning Department staff that the proposed structure of less than 10,000 square feet be considered less than "large scale." The portion of the property below the 150-foot contour line is approximately 8,811 square feet (4 percent); whereas approximately 206,375-square-feet (96 percent) is located above the 150-foot contour line.

The project proposes development wholly within that portion of the site set aside by a previous Council action for development and zoned MVCO. While a majority of the development footprint extends above the 150 foot contour and within the open space designation, it is outside of the open space easement area already set aside to preserve the hillsides on the property. By staying outside of the open space easement area, the proposed project is consisted with the environmental goals of the community plan

In addition, as part of the discretionary review process, the project was subject to the regulations of the Mission Valley Planned District Ordinance (MVPDO). Staff determined that the project met all of the development regulations of the MVPDO with the exception of §103.2107(c)(3)(A). This section restricts development within the Hillside Sub-district from encroaching above the 150-foot elevation contour line. However, the MVPDO provides additional language in §103.2104(d)(4) that allows for, on an individual project basis, the criteria of this planned district to be increased or decreased when one or more of the following situations is applicable: 1) due to special conditions, or exceptional characteristics of the property, or of its location or surroundings, strict interpretation of the criteria of the planned district would result in unusual difficulties or unnecessary hardship or would be inconsistent with the general purpose of the planned district; 2) a superior design can be achieved by altering the adopted standards; or 3) conformance with the "Guidelines for Discretionary Review: necessitates deviations from adopted standards.

As such, due to the topography of the site, specifically regarding the restriction of development above the 150-foot contour line, limiting the development area of the

property to below the 150-foot contour line (within a narrow area encompassing approximately 8,811 square feet) would present an unnecessary hardship on the ability to develop the land. Therefore, the project was redesigned to be more consistent with the recommendations outlined within the community plan and in accordance with the MVPDO which tucks the rear of the building into the hillside and terraces the second story, thereby creating a roof garden and/or deck. The building roof is now designed to be sloped, and would be stucco exterior and earth tone in character. Grading would be reduced in that a large flat pad is no longer proposed. The project would be largely screened from the public right-of-way by existing development to the north. The remaining 3.89 acres (80 percent) would continue to remain within the existing open space conservation easement adjacent to the MHPA and would not be impacted. The building footprint and the associated retaining walls are limited to the commercial/office portion of the site and do not encroach into the 3.89 acres of the open space easement

The Environmentally Sensitive Land regulations within the Land Development Code, Section 143.0142(g)(2), prohibit the use of a retaining wall as an erosion control measure on steep slopes, unless it is determined to be the only feasible means of protecting existing primary structures or public facilities. The purposes of the retaining walls proposed are to resist lateral pressure from soil and fill and to protect the development pad. LDR Geology staff has verified that the various retaining walls proposed with the development are intended for soil stabilization on the existing steep slopes and are not erosion control measures. LDR Geology staff have reviewed all technical studies and development plans and concluded that all issues relating to slope stabilization have been adequately addressed. The project as currently designed would not result in any environmental land use impacts.

#### WATER QUALITY

According to the *Water Quality Control Plan for the San Diego Basin*, the project site is located in the Lower San Diego Hydrologic Unit (907.11), which is currently a 303(d) listed water body. Bodies of water listed under section 303(d) of the 1972 Clean Water Act include those that do not meet minimum water quality standards even after point sources of pollution have installed the minimum required levels of pollution control technology. The San Diego River (Lower) is listed on the 303(d) list due to fecal coliform, phosphorus, total dissolved solids, and low dissolved oxygen (which refers to nutrients, organic compounds, trash and debris, and oxygen demanding substances). The San Diego River is located approximately a quarter-mile north of the project site.

The site consists of a vegetated slope which currently drains in four different locations. Two of the discharge points (located in the vicinity of the northwest corner of the parcel) flow into the existing storm drain on Scheidler Way; another discharge point (located along the northern boundary of the parcel) flows down the slope and into an existing gunite brow ditch which then continues onto the adjacent parking lot to the north; lastly, the fourth discharge point, located in the northeast corner of the parcel, collects runoff at an existing headwall which then discharges through an eight-in Poly Vinyl Chloride pipe and onto the adjacent property's parking lot.

A Storm Water Requirements Applicability Checklist, *Water Quality Technical Report for Pacific Coast Office Building, San Diego, California* (May 25, 2005), and *Hydrology Report for Pacific Coast Office Building, City of San Diego, California* (May 25, 2005), prepared by Burkett & Wong Engineers and Surveyors were prepared for this project and reviewed and accepted by City Engineering staff. The completed Storm Water Applicability Checklist identifies this project as a "Priority" project, which is subject to permanent Storm Water Best Management Practice (BMP) requirements.

As a result of the proposed development, the existing drainage pattern would be slightly altered. Runoff from the existing vegetated slope, located south of the project site, would continue to sheet flow into a new concrete brow ditch. Two new catch basins with filtration inserts would be added to the project to collect runoff from parking and sidewalk areas. Site design BMPs would include conservation of existing natural area, energy dissipaters, and retention of the native vegetation on the slopes. Various source control BMPs have also been incorporated into the project design to further reduce negative effects to water quality. These would include an efficient irrigation system, concrete stamping, reduction of the need for pesticides by planting pest-resistant and/or well-adapted plant varieties such as native plants, an impervious surface in the trash storage area, and no storage of hazardous materials on-site.

The project and the above described project features have been designed in accordance with the City's Storm Water Standards. Compliance with the standards through the above project elements would preclude direct and cumulatively considerable hydrology/water quality impacts.

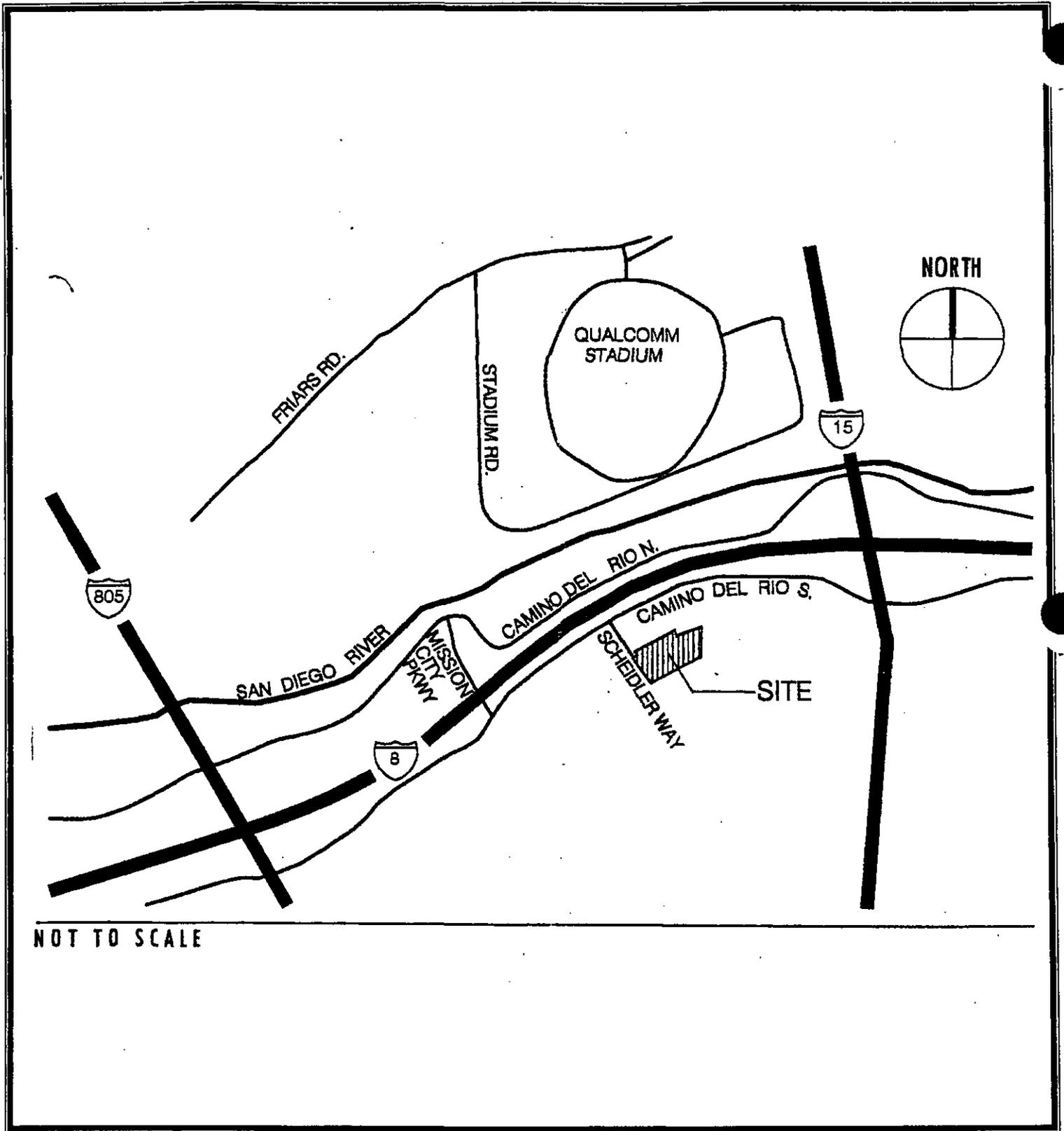
V. RECOMMENDATION:

On the basis of this initial evaluation:

- The proposed project would not have a significant effect on the environment, and a NEGATIVE DECLARATION should be prepared.
- Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described in Section IV above have been added to the project. A MITIGATED NEGATIVE DECLARATION should be prepared.
- The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT should be required.

PROJECT ANALYST: SHEARER-NGUYEN

Attachments: Initial Study Checklist  
Figure 1: Vicinity Map  
Figure 2: Location Map  
Figure 3: Preliminary Review Design Site Plan  
Figure 4: Preliminary Review Design Cross Section  
Figure 5: First Submittal Design Site Plan  
Figure 6: First Submittal Design Cross Section  
Figure 7: Single-Story Design Site Plan  
Figure 8: Single-Story Design Cross Section  
Figure 9: Subterranean Parking Design Site Plan  
Figure 10: Subterranean Parking Design Cross Section  
Figure 11: Proposed Project Site Plan  
Figure 12: Propose Project Cross Section  
Figure 13: Proposed Project Elevations



NOT TO SCALE

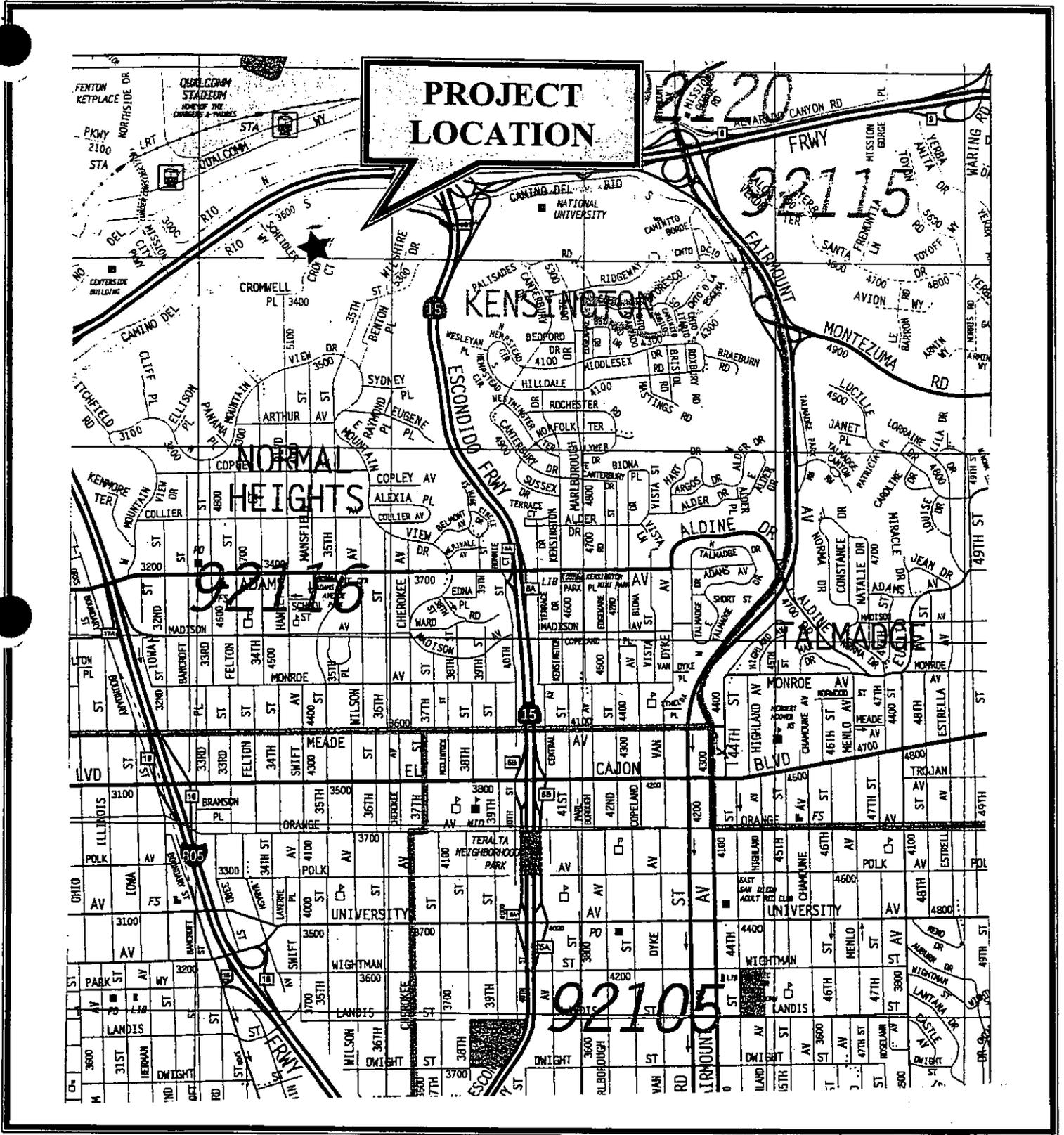
Pacific Coast Office Building



**Vicinity Map**

Environmental Analysis Section Project No. 54384  
 CITY OF SAN DIEGO · DEVELOPMENT SERVICES

Figure  
**1**

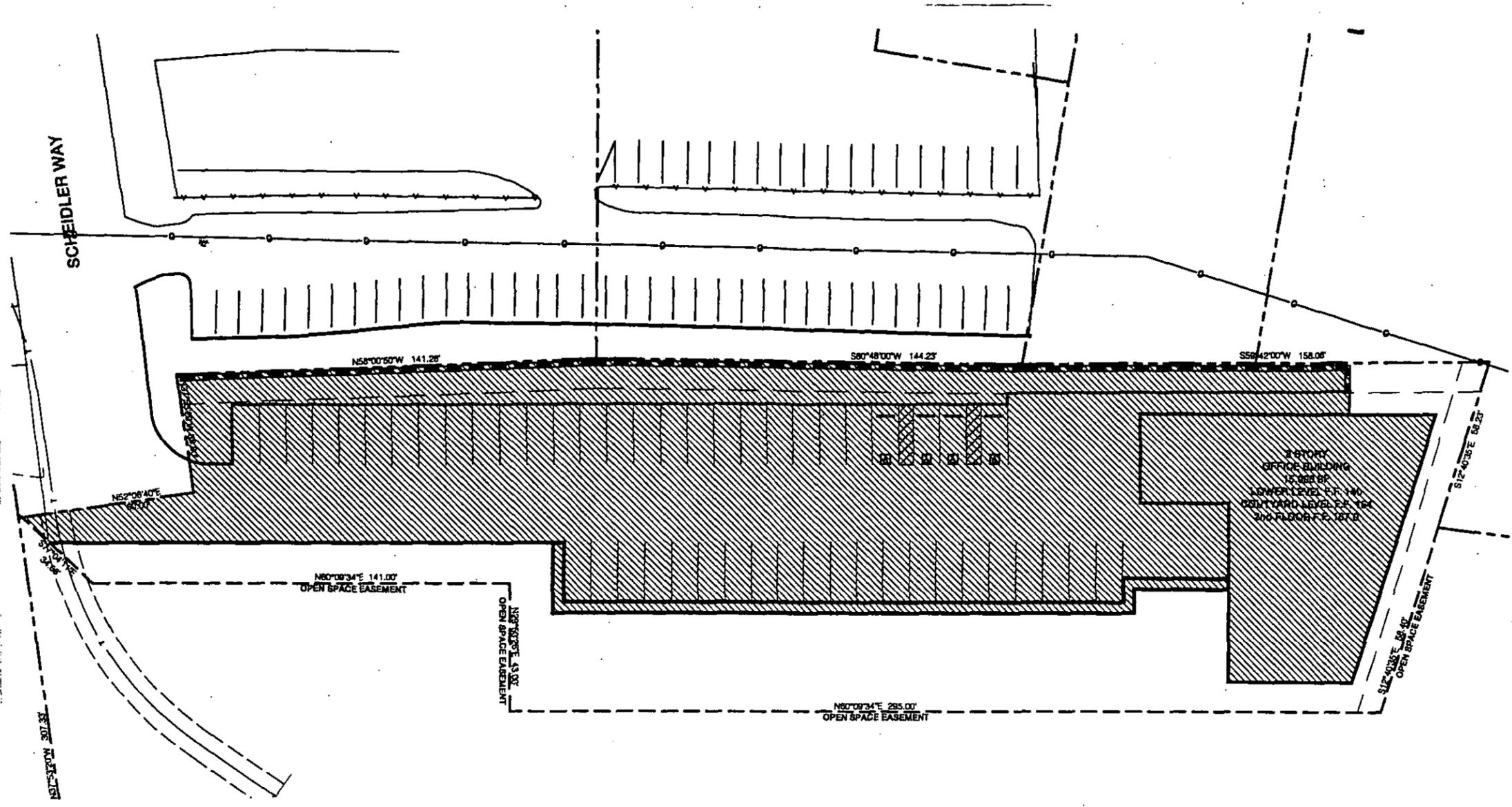


Pacific Coast Office Building



**Location Map**  
 Environmental Analysis Section Project No. 54384  
 CITY OF SAN DIEGO · DEVELOPMENT SERVICES

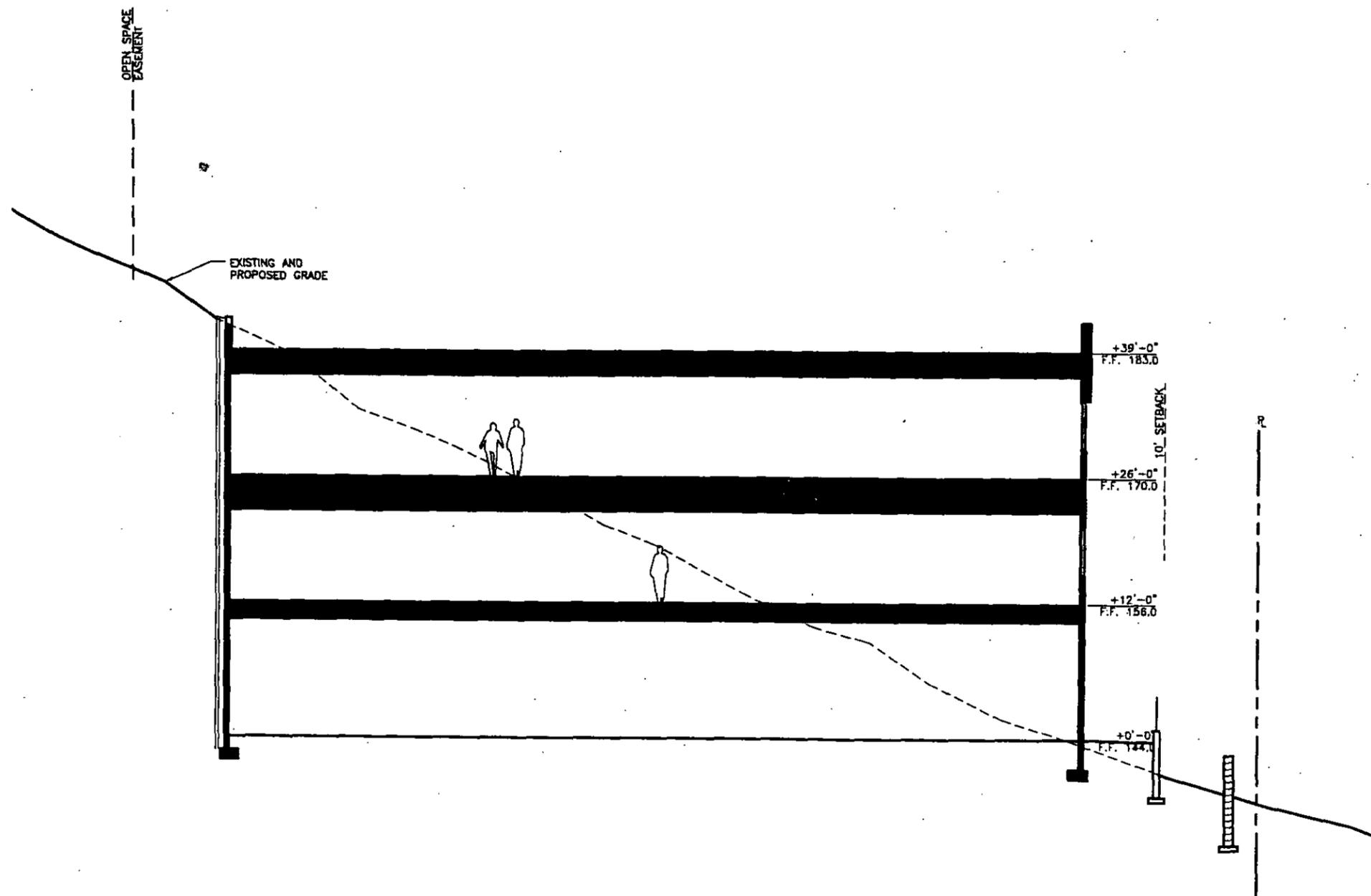
Figure  
**2**



**Preliminary Review Design Site Plan**  
 Environmental Analysis Section      Project No. 54384  
 CITY OF SAN DIEGO · DEVELOPMENT SERVICES DEPARTMENT



Figure  
**3**



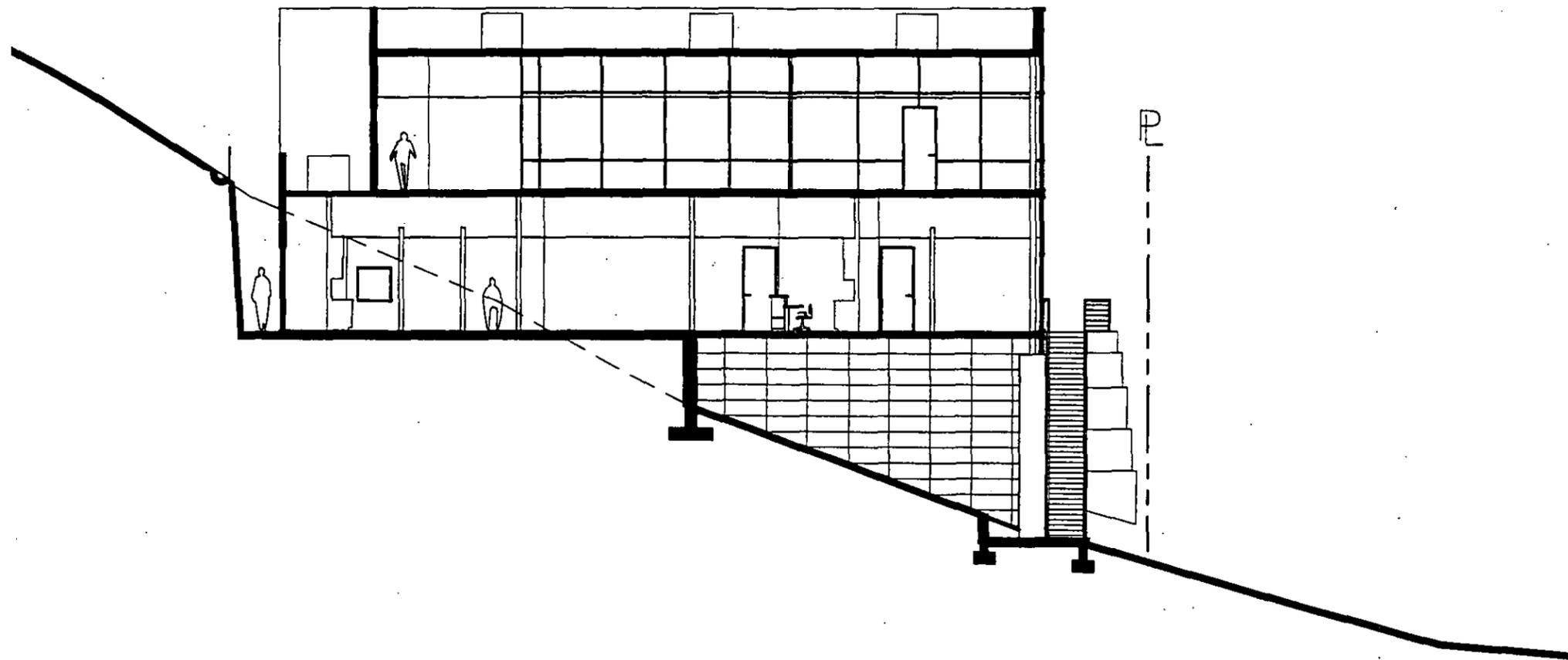
# Preliminary Review Design Cross Section

Environmental Analysis Section      Project No. 54384  
 CITY OF SAN DIEGO · DEVELOPMENT SERVICES DEPARTMENT



Figure  
**4**

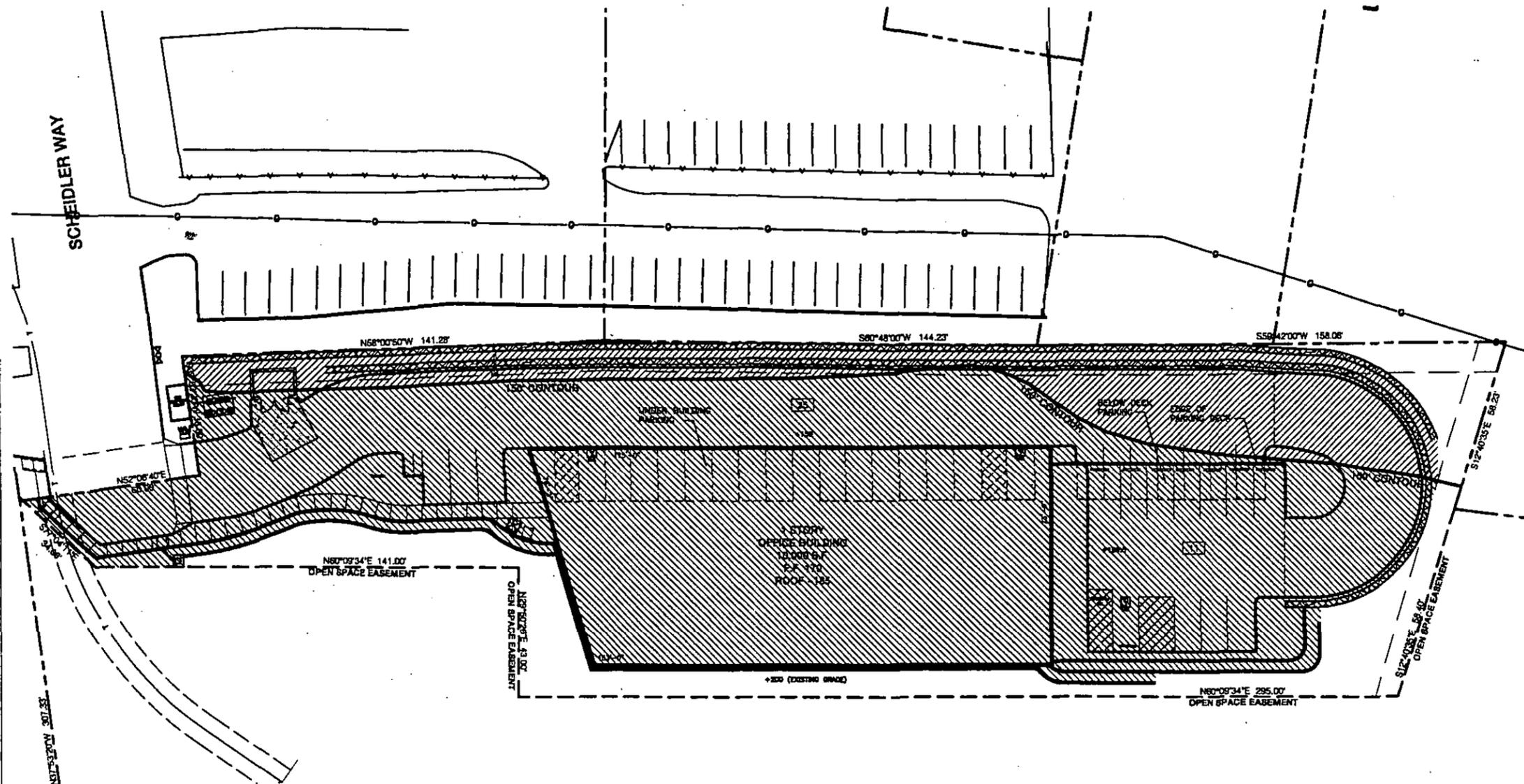




**First Submittal Design Cross Section**  
Environmental Analysis Section      Project No. 54384  
CITY OF SAN DIEGO · DEVELOPMENT SERVICES DEPARTMENT



Figure  
**6**



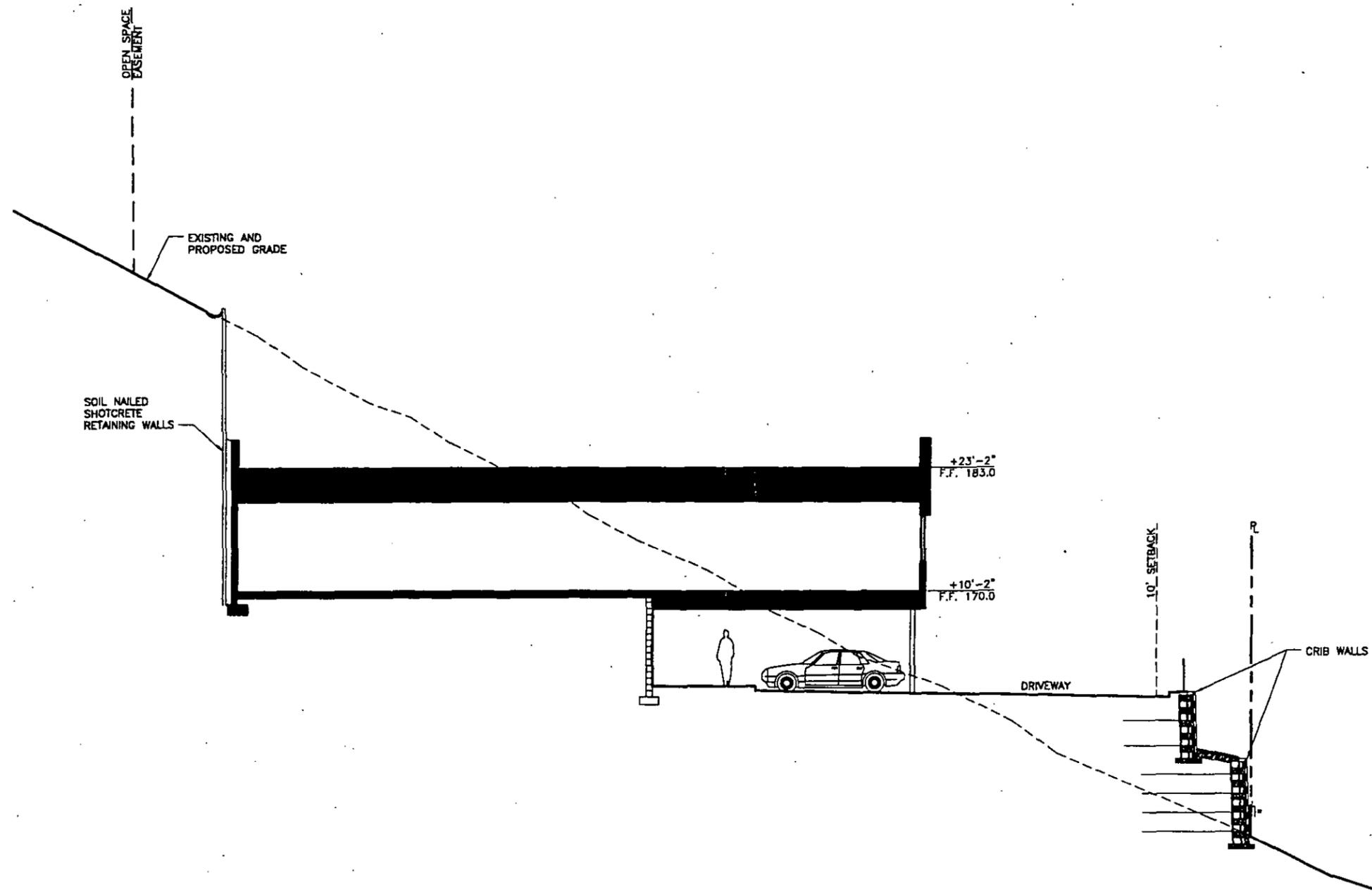
	DEVELOPMENT AREA BELOW THE 150' CONTOUR	7,617 S.F. (.17 AC)
	DEVELOPMENT AREA ABOVE THE 150' CONTOUR	31,571 S.F. (.72 AC)
	TOTAL DEVELOPMENT AREA	39,188 S.F. (.90 AC)



**Single-Story Design Site Plan**  
 Environmental Analysis Section      Project No. 54384  
 CITY OF SAN DIEGO · DEVELOPMENT SERVICES DEPARTMENT

Figure  
**7**



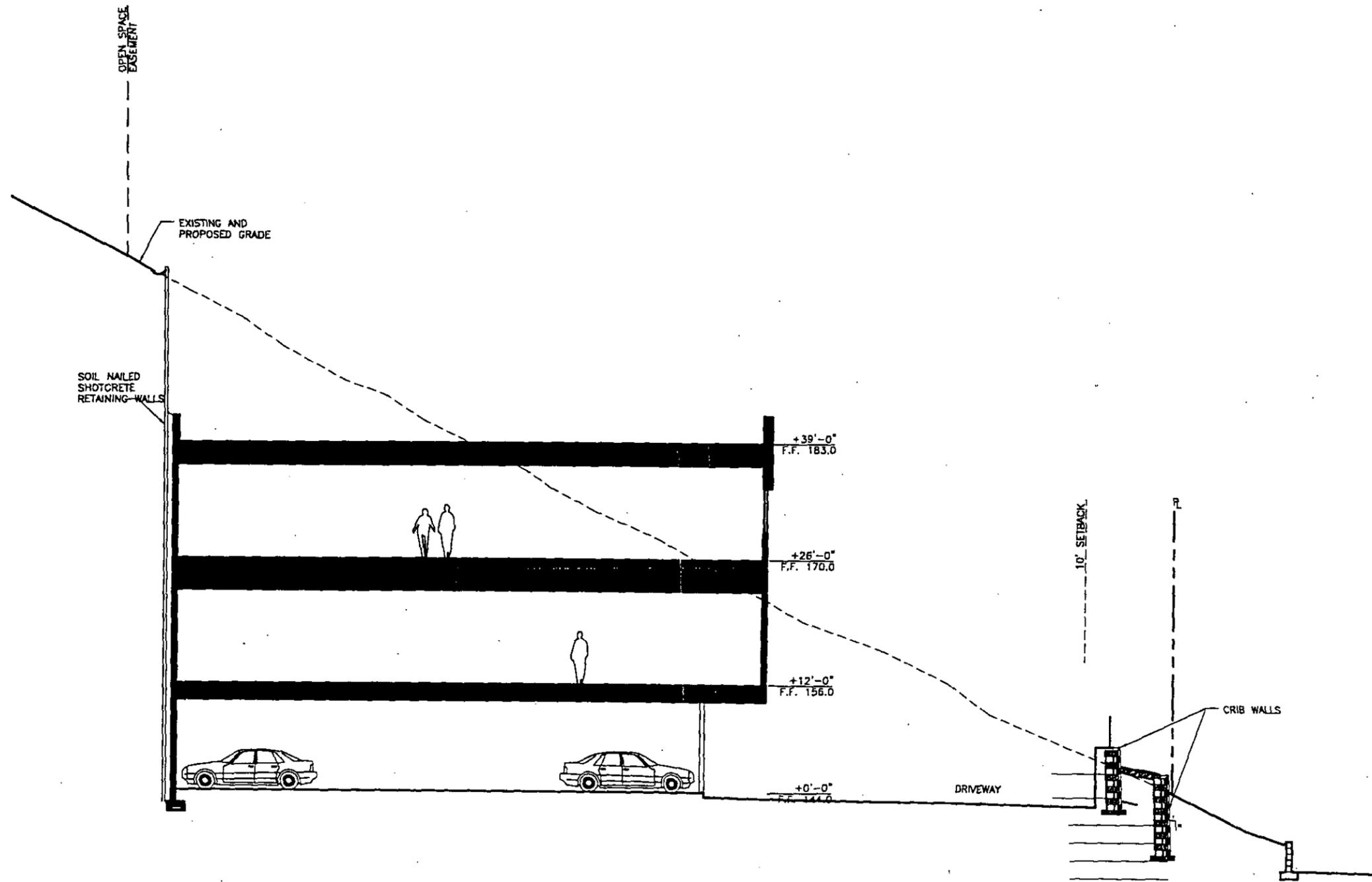


**Single-Story Design Cross Section**  
 Environmental Analysis Section      Project No. 54384  
 CITY OF SAN DIEGO · DEVELOPMENT SERVICES DEPARTMENT



Figure  
**8**



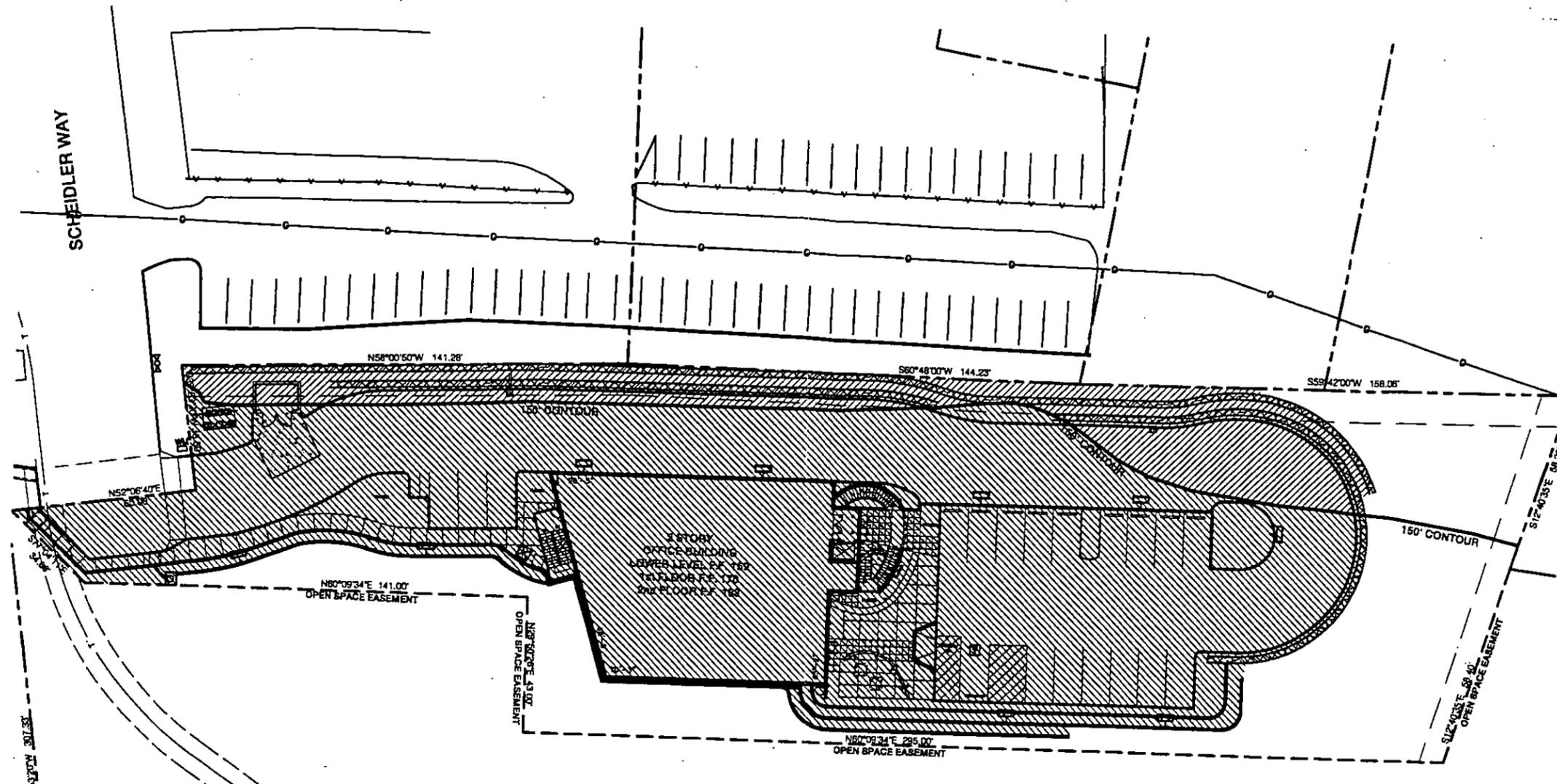


# Subterranean Parking Design Cross Section

Environmental Analysis Section Project No. 54384  
 CITY OF SAN DIEGO · DEVELOPMENT SERVICES DEPARTMENT



Figure  
**10**



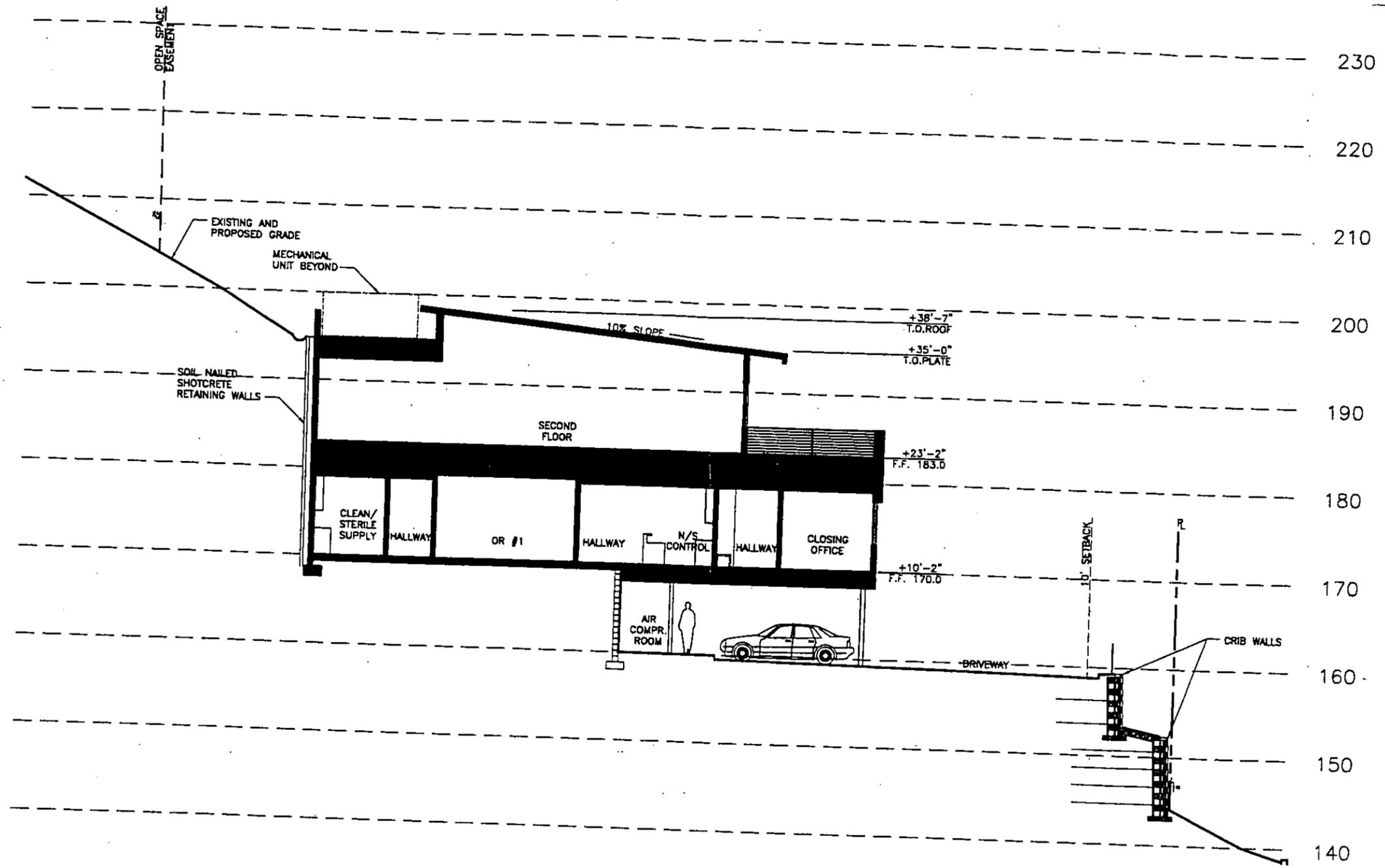
	DEVELOPMENT AREA BELOW THE 150' CONTOUR	5,992 S.F. (.14 AC)
	DEVELOPMENT AREA ABOVE THE 150' CONTOUR	28,669 S.F. (.66 AC)
	TOTAL DEVELOPMENT AREA	34,661 S.F. (.80 AC)
	TOTAL AMOUNT OF CUT	8,300 CU.YD.
	TOTAL AMOUNT OF FILL	2,800 CU.YD.



**Proposed Project Site Plan**  
 Environmental Analysis Section Project No. 54384  
 CITY OF SAN DIEGO · DEVELOPMENT SERVICES DEPARTMENT

Figure  
**11**

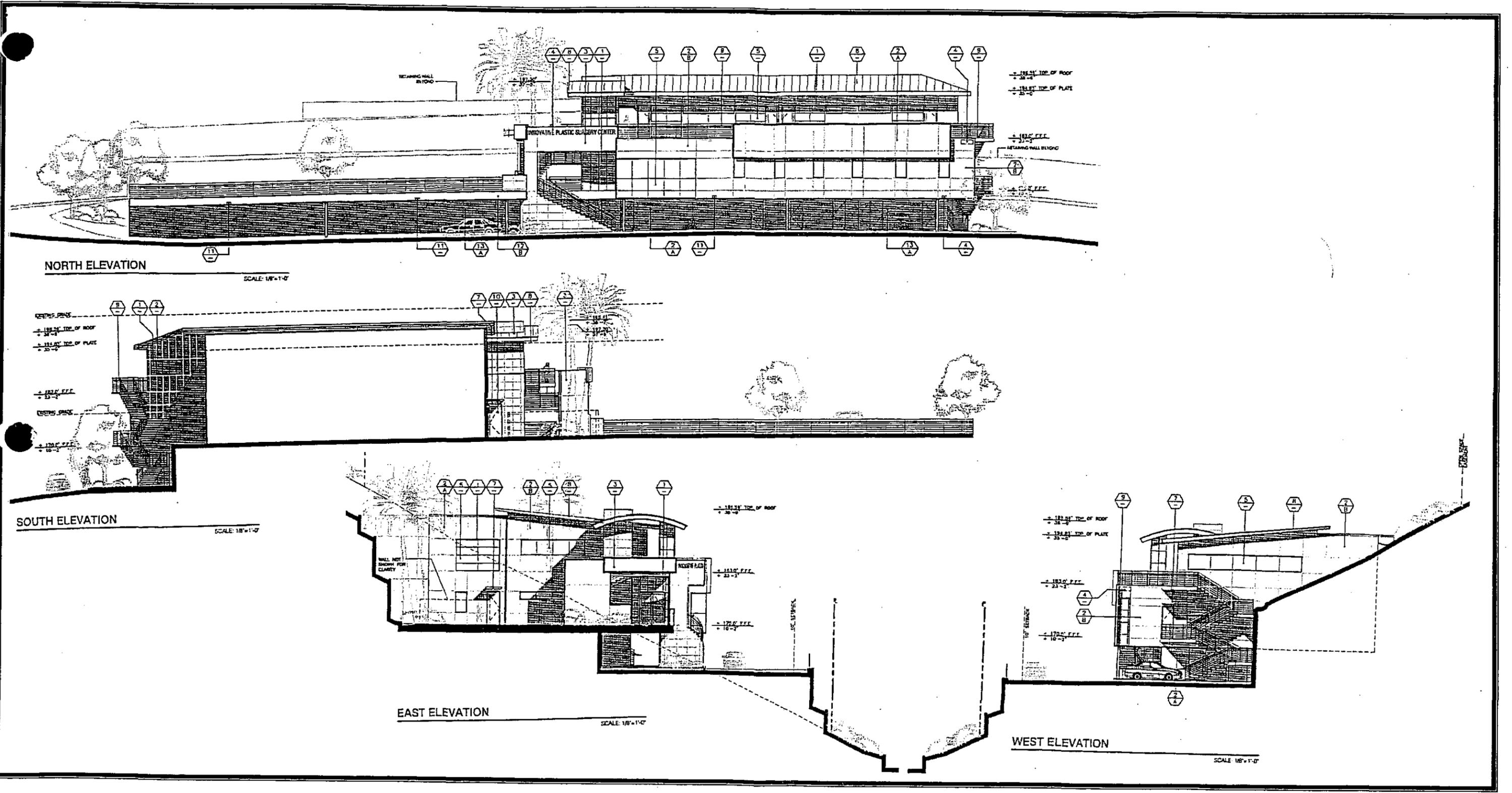




**Proposed Project Cross Section**  
 Environmental Analysis Section Project No. 54384  
 CITY OF SAN DIEGO · DEVELOPMENT SERVICES DEPARTMENT

Figure  
**12**





Pacific Coast Office Building



### Initial Study Checklist

Date: December 20, 2004

Project No.: 54384

Name of Project: PACIFIC COAST OFFICE  
BUILDING

### III. ENVIRONMENTAL ANALYSIS:

The purpose of the Initial Study is to identify the potential for significant environmental impacts which could be associated with a project pursuant to Section 15063 of the State CEQA Guidelines. In addition, the Initial Study provides the lead agency with information which forms the basis for deciding whether to prepare an Environmental Impact Report, Negative Declaration or Mitigated Negative Declaration. This Checklist provides a means to facilitate early environmental assessment. However, subsequent to this preliminary review, modifications to the project may mitigate adverse impacts. All answers of "yes" and "maybe" indicate that there is a potential for significant environmental impacts and these determinations are explained in Section IV of the Initial Study.

Yes    Maybe    No

#### I. AESTHETICS / NEIGHBORHOOD CHARACTER – Will the proposal result in:

- |  | <u>Yes</u> | <u>Maybe</u> | <u>No</u> |
|--|------------|--------------|-----------|
| A. The obstruction of any vista or scenic view from a public viewing area?<br><u>The project would not result in the obstruction of any public view or scenic vista. All setbacks and height limits would be observed.</u>   | —          | —            | <u>X</u>  |
| B. The creation of a negative aesthetic site or project?<br><u>The two-story building would be compatible with the surrounding development and is allowed by the community plan and zoning designation. No such impacts are anticipated. See I-A and I-C.</u>  | —          | —            | <u>X</u>  |
| C. Project bulk, scale, materials, or style which would be incompatible with surrounding development?<br><u>The design of the proposed project would be compatible with the architectural style of the local setting. The project would not exceed any City height, setback, size or grading standards. Building materials proposed are compatible with surrounding development.</u> | —          | —            | <u>X</u>  |

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
D. Substantial alteration to the existing character of the area? <u>The two-story building would be located adjacent to similar commercial/office development and would not substantially alter the existing character of the area (see I-C above).</u>	—	—	<u>X</u>
E. The loss of any distinctive or landmark tree(s), or a stand of mature trees? <u>No distinctive or landmark trees would be removed.</u>	—	—	<u>X</u>
F. Substantial change in topography or ground surface relief features? <u>No substantial changes in topography or ground relief features are proposed.</u>	—	—	<u>X</u>
G. The loss, covering or modification of any unique geologic or physical features such as a natural canyon, sandstone bluff, rock outcrop, or hillside with a slope in excess of 25 percent? <u>The project site does not contain any unique geologic or physical features.</u>	—	—	<u>X</u>
H. Substantial light or glare? <u>The two-story building would not be expected to cause substantial light or glare. Proposed lighting would comply with all current street lighting standards in accordance with the City of San Diego Street Design Manual, satisfactory to the City Engineer. No substantial sources of light would be generated during project construction, as construction activities would occur during daylight hours.</u>	—	—	<u>X</u>
I. Substantial shading of other properties? <u>The proposed project does not involve the amount of height and mass required to subject adjacent properties to substantial lighting. Please see I-C.</u>	—	—	<u>X</u>
II. AGRICULTURE RESOURCES / NATURAL RESOURCES / MINERAL RESOURCES – Would the proposal result in:			

Yes    Maybe    No

A. The loss of availability of a known mineral resource (e.g., sand or gravel) that would be of value to the region and the residents of the state?  
There are no such resources located on the project site.

—                      —                      X

B. The conversion of agricultural land to nonagricultural use or impairment of the agricultural productivity of agricultural land?  
Agricultural land is not present on site. See II-A.

—                      —                      X

III. AIR QUALITY – Would the proposal:

A. Conflict with or obstruct implementation of the applicable air quality plan?  
The two-story building is compatible with underlying zoning and community plan designation and would not negatively impact air quality.

—                      —                      X

B. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?  
Please see III-A.

—                      —                      X

C. Expose sensitive receptors to substantial pollutant concentrations?  
Please see III-A.

—                      —                      X

D. Create objectionable odors affecting a substantial number of people?  
The two-story building would not be associated with the creation of such odors. Please see III-A.

—                      —                      X

E. Exceed 100 pounds per day of Particulate Matter 10 (dust)?  
The grading amounts required for project implementation would not exceed 100 pounds per day of particulate matter. It is estimated that one graded acre produces 26.4 pounds of particulate matter. Approximately 0.83 acre would be graded for this project.. Standard dust abatement practices would be implemented during construction.

—                      —                      X

F. Alter air movement in the area of the project?

—                      —                      X

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
<u>The two-story building would not have the bulk and scale required to cause such impacts.</u>			
G. Cause a substantial alteration in moisture, or temperature, or any change in climate, either locally or regionally? <u>Please see III-F.</u>	—	—	<u>X</u>
IV. BIOLOGY – Would the proposal result in:			
A. A reduction in the number of any unique, rare, endangered, sensitive, or fully protected species of plants or animals? <u>The project site contains sensitive biological habitat which would be impacted through project implementation. Raptor protection would be required. Although the site is not directly adjacent to Multi-Habitat Planning Area (MHPA) lands it is adjacent to open space. Please refer to the Initial Study Discussion.</u>	—	<u>X</u>	—
B. A substantial change in the diversity of any species of animals or plants? <u>No substantial change expected. Impacts to Diegan CSS and NNGL would be mitigated.</u>	—	—	<u>X</u>
C. Introduction of invasive species of plants into the area? <u>Project landscaping would be required to conform with City standards. Please see IV-A.</u>	—	—	<u>X</u>
D. Interference with the movement of any resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors? <u>No such corridors exist onsite. Please see IV-A.</u>	—	—	<u>X</u>
E. An impact to a sensitive habitat, including, but not limited to streamside vegetation, aquatic, riparian, oak woodland, coastal sage scrub or chaparral? <u>Please see IV-A.</u>	—	<u>X</u>	—
F. An impact on City, State, or federally regulated wetlands (including, but not limited to, coastal salt marsh, vernal pool, lagoon, coastal, etc.) through direct removal, filling, hydrological interruption or other means?	—	—	<u>X</u>

Yes    Maybe    No

The project site does not contain any City, State or federally regulated wetlands. Please see IV-A.

- G. Conflict with the provisions of the City's Multiple Species Conservation Program Subarea Plan or other approved local, regional or state habitat conservation plan?

—            X            —

The project site is designated for Commercial Office and Open Space in the Mission Valley Community Plan. The project site is located approximately 150 feet south and up-slope of the Multi-Habitat Planning Area (MHPA). Therefore, the project would be required to comply with the Land Use Adjacency Guidelines and would therefore not conflict with the Multiple Species Conservation Program (MSCP). Please see IV-A.

V. ENERGY – Would the proposal:

- A. Result in the use of excessive amounts of fuel or energy (e.g. natural gas)?  
Standard commercial consumption is expected.

—            —            X

- B. Result in the use of excessive amounts of power?  
Please see V-A.

—            —            X

VI. GEOLOGY/SOILS – Would the proposal:

- A. Expose people or property to geologic hazards such as earthquakes, landslides, mudslides, ground failure, or similar hazards?

—            —            X

The project site is assigned a geologic risk category of 53 per the City of San Diego Safety Seismic Study Maps. Please see Initial Study Discussion.

- B. Result in a substantial increase in wind or water erosion of soils, either on or off the site?  
No such impacts would be anticipated with the project. The site would be landscaped in accordance with City requirements and all storm water requirements would be met. Please see VI-A.

—            —            X

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
C. Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? <u>The project is not be located on such a geologic unit or soil type. Please see VI-A.</u>	—	—	<u>X</u>
<b>VII. HISTORICAL RESOURCES – Would the proposal result in:</b>			
A. Alteration of or the destruction of a prehistoric or historic archaeological site? <u>According to the City of San Diego reference materials, the project site is located within an area having a high sensitivity level for archaeological resources. Refer to Initial Study discussion.</u>	—	<u>X</u>	—
B. Adverse physical or aesthetic effects to a prehistoric or historic building, structure, object, or site? <u>No historic buildings or structures exist onsite. The project site is an undeveloped parcel. Refer to Initial Study discussion.</u>	—	<u>X</u>	—
C. Adverse physical or aesthetic effects to an architecturally significant building, structure, or object? <u>No such structures exist on-site</u>	—	—	<u>X</u>
D. Any impact to existing religious or sacred uses within the potential impact area? <u>No such uses are known to occur on-site.</u>	—	—	<u>X</u>
E. The disturbance of any human remains, including those interred outside of formal cemeteries? <u>No such remains are anticipated.</u>	—	—	<u>X</u>
<b>VIII. HUMAN HEALTH / PUBLIC SAFETY / HAZARDOUS MATERIALS: Would the proposal:</b>			
A. Create any known health hazard (excluding mental health)? <u>The two-story office building in a commercial/office neighborhood would not be associated with such impacts.</u>	—	—	<u>X</u>
B. Expose people or the environment to a significant hazard through the routine transport, use or disposal			

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
of hazardous materials? <u>Any substances relating to the medical office use would be handled in accordance with existing county regulations.</u>	—	—	<u>X</u>
C. Create a future risk of an explosion or the release of hazardous substances (including but not limited to gas, oil, pesticides, chemicals, radiation, or explosives)? <u>Please see VIII-A.</u>	—	—	<u>X</u>
D. Impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan? <u>The project is consistent with adopted land use plans and would not interfere with emergency response and/or evacuation plans. Please see VIII-A.</u>	—	—	<u>X</u>
E. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or environment? <u>The project is not located on a site which is included on a list of hazardous materials sites.</u>	—	—	<u>X</u>
F. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? <u>Please see VIII-A.</u>	—	—	<u>X</u>
IX. HYDROLOGY/WATER QUALITY – Would the proposal result in:			
A. An increase in pollutant discharges, including down stream sedimentation, to receiving waters during or following construction? Consider water quality parameters such as temperature dissolved oxygen, turbidity and other typical storm water pollutants. <u>The project would be required to comply with all storm water quality standards during and after construction and appropriate Best Management Practices (BMPs) must be utilized. Refer to the Initial Study Discussion.</u>	—	—	<u>X</u>
B. An increase in impervious surfaces and associated increased runoff?	—	—	<u>X</u>

Yes    Maybe    No

The project would result in an incremental increase in impervious surfaces. However, BMPs would be utilized to treat all site runoff. Refer to IX-A.

- C. Substantial alteration to on- and off-site drainage patterns due to changes in runoff flow rates or volumes? —    —    X

The increased peak discharge would not significantly affect current drainage patterns. Refer to IX-A

- D. Discharge of identified pollutants to an already impaired water body (as listed on the Clean Water Act Section 303(b) list)? —    —    X  
Please see IX-A.

- E. A potentially significant adverse impact on ground water quality? —    —    X  
No such impact would occur. No areas of ponded water would be created. Please see IX-A.

- F. Cause or contribute to an exceedance of applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses? —    —    X  
See IX-A above. The project would not make a considerable contribution to water quality degradation.

X. LAND USE – Would the proposal result in:

- A. A land use which is inconsistent with the adopted community plan land use designation for the site or conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over a project? —    —    X

The two-story building would be constructed on a site which is designated for Commercial Office and Open Space per the Mission Valley Community Plan and is zoned MV-CO (Mission Valley-Commercial Office) and RS-1-1 (Single Family Residential). The project site is located in an area developed with other commercial/office buildings.

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
B. A conflict with the goals, objectives and recommendations of the community plan in which it is located? <u>Please see X-A.</u>	—	—	<u>X</u>
C. A conflict with adopted environmental plans, including applicable habitat conservation plans adopted for the purpose of avoiding or mitigating an environmental effect for the area? <u>Land Use Adjacency Guideline measures would be implemented to avoid indirect impacts to the MHPA</u>	—	<u>X</u>	—
D. Physically divide an established community? <u>The project site is located in a developed urban community and surrounded by other similar commercial/office development. The project would not physically divide an established community.</u>	—	—	<u>X</u>
E. Land uses which are not compatible with aircraft accident potential as defined by an adopted airport Comprehensive Land Use Plan? <u>The project site is not located within the Airport Environs Overlay Zone or the Airport Approach Overlay Zone.</u>	—	—	<u>X</u>
XI. NOISE – Would the proposal result in:			
A. A significant increase in the existing ambient noise levels? <u>The project would operate within the City's allowable noise standards and would not cause a significant increase in ambient noise levels.</u>	—	—	<u>X</u>
B. Exposure of people to noise levels which exceed the City's adopted noise ordinance? <u>The project would not expose people to noise levels which exceed the City's adopted noise standards. The project site is not in close proximity to any loud noise producing uses.</u>	—	—	<u>X</u>
C. Exposure of people to current or future transportation noise levels which exceed standards established in the Transportation Element of the General Plan or an adopted airport Comprehensive Land Use Plan? <u>Please see XI-B.</u>	—	—	<u>X</u>

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
<p>XII. PALEONTOLOGICAL RESOURCES: Would the proposal impact a unique paleontological resource or site or unique geologic feature?  <u>The project site is underlain by Alluvium, Stadium Conglomerate, and the Mission Valley Formation. Both the Stadium Conglomerate and the Mission Valley Formation have a sensitivity rating of high, whereas Alluvium has a low sensitivity level potential for recovery of paleontological resources in the project area. Therefore mitigation is required. Refer to Initial Study discussion.</u></p>	—	<u>X</u>	—
<p>XIII. POPULATION AND HOUSING – Would the proposal:</p> <p>A. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?  <u>The project is the construction of a two-story building.</u></p>	—	—	<u>X</u>
<p>B. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?  <u>No such displacement would occur. See XIII-A.</u></p>	—	—	<u>X</u>
<p>C. Alter the planned location, distribution, density or growth rate of the population of an area?  <u>The project would be consistent with applicable land use plans, as well as land use and zoning designations. See XIII-A.</u></p>	—	—	<u>X</u>
<p>XIV. PUBLIC SERVICES – Would the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas:</p> <p>A. Fire protection?  <u>Project is within an urbanized area.</u></p>	—	—	<u>X</u>
<p>B. Police protection?  <u>Project is within an urbanized area.</u></p>	—	—	<u>X</u>
<p>C. Schools?  <u>Project would not generate school-age children.</u></p>	—	—	<u>X</u>

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
D. Parks or other recreational facilities? <u>The project would not affect recreational facilities.</u>	—	—	<u>X</u>
E. Maintenance of public facilities, including roads? <u>N/A.</u>	—	—	<u>X</u>
XV. RECREATIONAL RESOURCES – Would the proposal result in:			
A. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? <u>The project is an office building, which would not adversely affect the availability of and/or need for new or expanded recreational resources. See XIII-A.</u>	—	—	<u>X</u>
B. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? <u>The project would not require recreational facilities to be constructed. Refer XV-A above.</u>	—	—	<u>X</u>
XVI. TRANSPORTATION/CIRCULATION – Would the proposal result in:			
A. Traffic generation in excess of specific/community plan allocation? <u>The two-story building is consistent with the community plan designation and would not result in significant traffic generation.</u>	—	—	<u>X</u>
B. An increase in projected traffic which is substantial in relation to the existing traffic load and capacity of the street system? <u>The project is estimated to to generate approximately 423 average daily trips, including 36 morning peak-hour trips and 49 afternoon peak-hour trips.</u>	—	—	<u>X</u>
C. An increased demand for off-site parking? <u>The project is required to provide a minimum of 36 parking spaces. All required parking would be provided on site.</u>	—	—	<u>X</u>

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
D. Effects on existing parking? <u>No such effects would occur. See XVI-C.</u>	—	—	<u>X</u>
E. Substantial impact upon existing or planned transportation systems? <u>Project implementation would not affect existing transit service in the project vicinity.</u>	—	—	<u>X</u>
F. Alterations to present circulation movements including effects on existing public access to beaches, parks, or other open space areas? <u>Project implementation would not affect existing circulation in the project vicinity.</u>	—	—	<u>X</u>
G. Increase in traffic hazards for motor vehicles, bicyclists or pedestrians due to a proposed, non-standard design feature (e.g., poor sight distance or driveway onto an access-restricted roadway)? <u>Implementation of the project would not increase traffic hazards. The project would comply with all applicable engineering standards for driveway and street design.</u>	—	—	<u>X</u>
H. A conflict with adopted policies, plans or programs supporting alternative transportation models (e.g., bus turnouts, bicycle racks)? <u>Please see XVI-A.</u>	—	—	<u>X</u>
XVII. UTILITIES – Would the proposal result in a need for new systems, or require substantial alterations to existing utilities, including:			
A. Natural gas? <u>Adequate services are available to serve site.</u>	—	—	<u>X</u>
B. Communications systems? <u>Please see XVII-A.</u>	—	—	<u>X</u>
C. Water? <u>Please see XVII A.</u>	—	—	<u>X</u>
D. Sewer? <u>Please see XVII-A.</u>	—	—	<u>X</u>
E. Storm water drainage? <u>Please see XVII-A.</u>	—	—	<u>X</u>



relatively small, but where the effect of the total of those impacts on the environment is significant.)

The proposed project would not have a considerable incremental contribution to any cumulative impacts.

Yes      Maybe      No

—            —            X

- D. Does the project have environmental effects which would cause substantial adverse effects on human beings, either directly or indirectly?

The proposed project would not be associated with such impacts. All impacts would be mitigated to below a level of significance.

—            —            X

## INITIAL STUDY CHECKLIST

### REFERENCES

#### I. AESTHETICS / NEIGHBORHOOD CHARACTER

City of San Diego Progress Guide and General Plan.

Community Plan.

Local Coastal Plan.

#### II. AGRICULTURAL RESOURCES / NATURAL RESOURCES / MINERAL RESOURCES

City of San Diego Progress Guide and General Plan.

U.S. Department of Agriculture, Soil Survey - San Diego Area, California, Part I and II, 1973.

California Department of Conservation - Division of Mines and Geology, Mineral Land Classification.

Division of Mines and Geology, Special Report 153 - Significant Resources Maps.

Site Specific Report:

#### III. AIR

California Clean Air Act Guidelines (Indirect Source Control Programs) 1990.

Regional Air Quality Strategies (RAQS) - APCD.

Site Specific Report:

#### IV. BIOLOGY

City of San Diego, Multiple Species Conservation Program (MSCP), Subarea Plan, 1997

City of San Diego, MSCP, "Vegetation Communities with Sensitive Species and Vernal Pools" maps, 1996.

City of San Diego, MSCP, "Multiple Habitat Planning Area" maps, 1997.

- Community Plan - Resource Element.
- California Department of Fish and Game, California Natural Diversity Database, "State and Federally-listed Endangered, Threatened, and Rare Plants of California," January 2001.
- California Department of Fish & Game, California Natural Diversity Database, "State and Federally-listed Endangered and Threatened Animals of California," January 2001.
- City of San Diego Land Development Code Biology Guidelines.

X Site Specific Report:

**Biological Resources Report for the Pacific Coast Office Building Property, prepared by Helix Environmental, December 2, 2005 (revised May 31, 2006).**

**V. ENERGY**

**VI. GEOLOGY/SOILS**

- X City of San Diego Seismic Safety Study.
- X U.S. Department of Agriculture Soil Survey - San Diego Area, California, Part I and II, December 1973 and Part III, 1975.
- X Site Specific Report:

**Pacific Coast Medical Building, San Diego, California, Response to Comments, prepared by Geocon Incorporated, October 18, 2004.**

**Soil and Geologic Reconnaissance - Mission Valley Medical Office Building, San Diego, California, prepared by Geocon Incorporated, November 26, 2003.**

**VII. HISTORICAL RESOURCES**

- X City of San Diego Historical Resources Guidelines.
- X City of San Diego Archaeology Library.

Historical Resources Board List.

Community Historical Survey:

Site Specific Report:

Cultural Resources Survey for a Five-acre parcel located in the Mission Valley Areas of the City of San Diego, California, prepared by Kyle Consulting, April 2005.

**VIII. HUMAN HEALTH / PUBLIC SAFETY / HAZARDOUS MATERIALS**

San Diego County Hazardous Materials Environmental Assessment Listing, 2004.

San Diego County Hazardous Materials Management Division

FAA Determination

State Assessment and Mitigation, Unauthorized Release Listing, Public Use Authorized 1995.

Airport Comprehensive Land Use Plan.

Site Specific Report:

**IX. HYDROLOGY/WATER QUALITY**

Flood Insurance Rate Map (FIRM).

Federal Emergency Management Agency (FEMA), National Flood Insurance Program - Flood Boundary and Floodway Map.

Clean Water Act Section 303(b) list, dated July 2002,  
[http://www.swrcb.ca.gov/tmdl/303d\\_lists.html](http://www.swrcb.ca.gov/tmdl/303d_lists.html).

Site Specific Report:

Preliminary Hydrology Report for Pacific Coast Office Building, San Diego, California, prepared by Burkett & Wong, May 25, 2005.

Water quality Technical Report for Pacific Coast Office Building, San Diego, California, prepared by Burkett & Wong, May 25, 2005.

**X. LAND USE**

City of San Diego Progress Guide and General Plan.

Community Plan.

Airport Comprehensive Land Use Plan

City of San Diego Zoning Maps

FAA Determination

**XI. NOISE**

Community Plan

San Diego International Airport - Lindbergh Field CNEL Maps.

Brown Field Airport Master Plan CNEL Maps.

Montgomery Field CNEL Maps.

San Diego Association of Governments - San Diego Regional Average Weekday Traffic Volumes.

San Diego Metropolitan Area Average Weekday Traffic Volume Maps, SANDAG.

City of San Diego Progress Guide and General Plan.

Site Specific Report:

**XII. PALEONTOLOGICAL RESOURCES**

City of San Diego Paleontological Guidelines.

Demere, Thomas A., and Stephen L. Walsh, "Paleontological Resources City of San Diego," Department of Paleontology San Diego Natural History Museum, 1996.

Kennedy, Michael P., and Gary L. Peterson, "Geology of the San Diego Metropolitan Area, California. Del Mar, La Jolla, Point Loma, La Mesa, Poway, and SW 1/4 Escondido 7 1/2 Minute Quadrangles," California Division of Mines and Geology Bulletin 200, Sacramento, 1975.

— Kennedy, Michael P., and Siang S. Tan, "Geology of National City, Imperial Beach and Otay Mesa Quadrangles, Southern San Diego Metropolitan Area, California," Map Sheet 29, 1977.

— Site Specific Report:

**XIII. POPULATION / HOUSING**

— City of San Diego Progress Guide and General Plan.

— Community Plan.

— Series 8 Population Forecasts, SANDAG.

— Other:

**XIV. PUBLIC SERVICES**

X City of San Diego Progress Guide and General Plan.

X Community Plan.

**XV. RECREATIONAL RESOURCES**

— City of San Diego Progress Guide and General Plan.

— Community Plan.

— Department of Park and Recreation

— City of San Diego - San Diego Regional Bicycling Map

— Additional Resources:

**XVI. TRANSPORTATION / CIRCULATION**

— City of San Diego Progress Guide and General Plan.

X Community Plan.

X San Diego Metropolitan Area Average Weekday Traffic Volume Maps, SANDAG.

— San Diego Region Weekday Traffic Volumes, SANDAG.

— Site Specific Report:

**XVII. UTILITIES**

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**XVIII. WATER CONSERVATION**

— Sunset Magazine, New Western Garden Book. Rev. ed. Menlo Park, CA: Sunset Magazine.