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Development Permit Appeal Application

THE CITY OF SAN DIEGO

SAN DIEGO, CALIF.

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- Process Two Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Board of Zoning Appeals
- Appeal of a Hearing Officer Decision to revoke a permit
- Process Four Decision - Appeal to City Council

4. Lynn Mulholland P.O. Box 900234 San Diego Calif 92190 619 446-1400
 200-3745

2. Appellant Name Please check one Applicant Officially recognized Planning Committee "Interested Person" (Per M.C. Sec. 113.0103)
 1. Ellen Shively, Sierra Club, San Diego Chapter 3820 Ray Street San Diego CA 92104

7. Randy Berkman, River Valley Preservation Project
 Address Box 7098, City San Diego 92167 State CA Zip Code 92167 Telephone 723-3928

3. James A. Peugh SD Audubon 4871 Pacific Highway, Suite 112, CA 92110 619-682-7200

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.
 Robert Pollack, Managing Partner Pacific Coast Assets, LLC
 Lois Pollack, Partner Pacific Coast Assets, LLC

4. Project Information	Date of Decision:	City Project Manager:
Permit/Approval Being Appealed & Permit/Approval No: 1. Site Development Permit (ESL) No. 158004 2. Mitigated Negative Declaration 54584	June 15, 2006	Anne Jarque

Decision (describe the permit/approval decision):

5. Reason for Appeal

- Factual Error
- Conflict with other matters
- Findings Not Supported
- New Information
- City-wide Significance (Process Four decisions only)

Description of Reasons for Appeal (Please relate your description to the allowable reasons for appeal noted above. Attach additional sheets if necessary.)

See attached

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature: Ellen M Shively SD Chapter, Sierra Club Lynn Mulholland
 Date: June 27, 2006
 Note: Faxed appeals are not accepted. James A. Peugh, SD Audubon June 27, 2006

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"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))

"The MVCP Open Space Plan, which was adopted in 1985, protects hillsides from ANY (CAPS ADDED) development above the 150-foot contour line...." J. Michael McDade, landowner attorney 2004 letter to City requesting MVCP Amendment for exceeding 150 foot elevation. (Attachment 7, Page 1)

"Development, including road construction above the 150-foot contour line shall not occur." (Mission Valley Planned District Ordinance (MVPDO) 103.213(A))

APPEAL INCLUDES "NEW" CONFLICT WITH MISSION VALLEY COMMUNITY PLAN (MVCP) AND "NEW" CONFLICT WITH LAND DEVELOPMENT MANUAL REGARDING THE PROPOSED DELETION OF BRUSH MANAGEMENT

This Appeal is similar to that presented to the Planning Commission. The New Information section does contain a discussion of how the deletion of brush management should have at least triggered re-circulation of the MND according to staff's interpretation of CEQA requirements. Also, the Land Development Manual states that Brush Management alternative compliance is not allowed under the Municipal Code. (Attachment 18). This indicates the project must be redesigned down-slope to avoid impacts to the Open Space Easement.

While staff will state that this Appeal is "Process 3" and therefore only of the CEQA document, we disagree. The Planning Commission Agenda listed the proposal as "Process 4"—which includes Appeal of Permit issues to City Council. We have always alleged that this action should be a Process 5/Mission Valley Plan Amendment. We therefore decline to limit this appeal only to CEQA issues and are preserving our right to comment on the Permit issues. Staff's definition of the proposal as a Process 3 is not supported by the evidence included in this Appeal—including but not limited to the applicant's own attorney acknowledging that a Mission Valley Plan (MVCP) Amendment would be required for exceeding the 150 foot elevation "prohibition." Also, the MVCP does not show the proposed, up-slope extension of Scheidler Way into designated open space on diagrams; or refer to such an extension of the road in text (See MVCP Land Use Map showing Scheidler Way terminus just down slope of the designated open space. See also Figure 25 in MVCP showing Scheidler Way ending just below the 150 foot contour line. The 150 foot contour line does "drop north" into the applicant's land—just east of Scheidler Way.). Extension of Scheidler Way into MVCP open space is further clear evidence that a MVCP Amendment is warranted. 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 does not show the currently proposed, up-slope (about 35 feet) extension of Scheidler Way. Extension of Scheidler Way up-slope into designated open space 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.

Further evidence this is not a Process 3 is that Environmentally Sensitive Lands regulations state that steep hillsides proposals must comply with the Land Development Manual (LDM) ESL: Chapter 14, Article 3, Division 1). The LDM states that retaining wall use is to be "minimized" on steep hillsides (Attachment 19). Since the proposal includes 9 walls over 1600 feet total length and may be the longest private use in city history, the use of retaining walls is not "minimized." A deviation from ESL regulations should have been requested for this at the start of the public review process. Deviations from ESL regulations are Process 4.

At the Planning Commission hearing, the issue was raised that the City Manger had never approved the PDO Exception request as required by Code. Staff did not dispute this. The project and MND which refers to this Code--were approved at the Planning Commission in direct conflict with this Code (Chapter 10, Article 3, Division 21, page 7).

CLARIFICATION OF PROJECT DESCRIPTION

Staff has repeatedly referred to the proposed building as 2 story (1st page, revised MND). However, several diagrams in staff reports, show that the building has 3 levels—with the first level serving as a “basement” for mechanical operations; and partial tuck under parking.. A 2 story building could be under 30 feet in height. The proposed building would be 39 feet high.

NEW INFORMATION: 2004 ARCHITECT’S DIAGRAMS SHOW HOW REDUCED IMPACT OPTION COULD BE ACCOMPLISHED AND IMPACTS TO DESIGNATED OPEN SPACE MINIMIZED

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). 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. Brush Management impacts to this Open Space Easement continue to be reasonably foreseeable as will be described in the Brush Management section.

In contrast, 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. This has not been explained. Rather 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 by about ½.. The east boundary of the property would be a parking lot—therefore no brush management impacts to Open Space Easement would occur there. 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.

* See also Attachment 14

PROJECT HISTORY

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. The Draft MND was circulated for comments in September 2005. No mention was made of any conflicts with the Mission Valley Community Plan (MVCP) or Mission Valley Planned District Ordinance (PDO) restrictions on building above the 150 foot elevation contour.

Eric Bowlby and Randy Berkman pointed out that the MND was false and misleading at the November 2 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. An accurately described project, with request for Exception to the PDO, has not been circulated for public comment. 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. Similarly, Normal Heights residents learned of this conflict with the PDO in a December, 2005 READER article—rather than in the CEQA document (See Attachment 12, Page 3, letter from Dave Potter to Hearing Officer Teasley).

The June 15 Planning Commission hearing vote was 4-2 to deny the Appeal and approve the project. Commissioners Chase and Garcia voted not to approve the project. Commissioner Chase stated “the retaining walls are out of this world” and Commissioner Garcia stated the site is “unsuitable” for the proposal; and she also aptly questioned the City Attorney Opinion that retaining walls would not function as erosion control devices and therefore a Deviation from ESL regulations would not be required. While appellant Lynn Mulholland had been informed by staff that the hearing would take place in the morning, it did not start until about 4:30 PM. People in support of the appeal were not able to stay until that late hour. Speakers in support of the Appeal: Randy Berkman (River Valley Preservation Project), Lynn Mullholland (representing herself and speaking for the Mission Valley Community Council), Jim Peugh (Audubon) and Ellen Shively (Sierra Club). The Chair limited comments supporting the appeal to 20 minutes. Therefore, Ms. Shively, despite committing an entire day of time to speak, was allowed to speak for less than a minute.

UNRESOLVED BRUSH MANGEMENT ISSUES: ARE BRUSH MANGEMENT IMPACTS TO THE OPEN SPACE EASEMENT REASONABLY FORESEEABLE UNDER CEQA? (SEE: Laurel Heights Improvement Assoc. v. Regents, 47 Cal.3d 376, 393-399). WOULD IMPACTS TO OPEN SPACE EASEMENT REQUIRE RE-DESIGN OF PROPOSAL?

Clearing and removal of Coastal Sage Scrub in the open space easement was planned though not disclosed in the MNDs. 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 evidence of significant unmitigated impacts /EIR requirement.

The above “New Information” from the prior Appeal is left in to show that staff had not disclosed this key information in the MNDs or Resolution in support of the Permit. In response to this issue being raised in the Appeal of the Hearing Officer approval, staff deleted the brush management requirements with an Errata page issued May 31. This action should have triggered at least re-circulation of the MND-- according to staff’s interpretation of CEQA standards:

“An environmental document need only be re-circulated when there is the identification of new significant environmental impacts or the addition of a new mitigation measure required to avoid a significant environmental impacts.” (March 31 MND Page 1).

The Errata Sheet discloses the following “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. Still, the public was not given opportunity to comment on this potentially new public safety impact in the CEQA document. This is another severe negation of CEQA required public participation process. 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.

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. 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). Reasonably foreseeable impacts to the Open Space Easement must be reviewed in the CEQA document—and have not been. This is another reason the MND is fundamentally 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% under 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...” Impacts to the Open Space Easement appear to entail a Process 5 hearing for partial abandonment of an easement. Also, the Open Space Easement is a mitigation area that is supposed to be left in its natural state for public use. Staff has acknowledged this in the MND and Permit Resolution.

The proposal appears to conflict with California Fire Code (Public Resources Code 4291) which requires a 100 foot fire zones buffer. Page 13 of the handouts to the Planning Commission provided by Randy Berkman, was a reprint of page 1 of a California brochure title “Why 100 Feet?” which describes this code. This issue was not addressed by the Planning Commission. This CA brochure page is Attachment 17.

PROJECT LACKS ACCURATE, STABLE DESCRIPTION AS REQUIRED BY CEQA

“An accurate, stable and finite project description is the Sine qua non of an informative and legally sufficient EIR.” (County of Inyo v. City of Los Angeles, 71 Cal App. 3d 185).

The project does not have a stable, accurate project description upon which the public has had opportunity to comment/receive City replies as CEQA requires. Rather, the MND has been modified 3 times in reply to public comments and is now in its 4th edition—all without re-circulation as directed by Hearing Officer Didon. The fluctuating MND project description reflects staff attempts to fit a square peg in a round hole. “[t]he incessant shifts among different project descriptions . . . vitiate[s] the City’s EIR process as a vehicle for intelligent public participation.” (County of Inyo v. City of Los Angeles quoted above). In the game of chess terms, the proposal is “checkmated” between non-compliant brush management impacts to the Open Space Easement (which are reasonably foreseeable since the Land Development Manual does not allow brush management alternative compliance as proposed in the latest MND revision) and required brush management for fire protection. The only “way out” is to build on other property or redesign the project down-slope.

EVIDENCE OF POTENTIAL CUMULATIVE IMPACTS IN THE VAACHI MEMO

This Memo was disclosed to the public for the first time at the April 19 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 feasible even if an access road/parking lot might minimally exceed 150' contour line.

FALSE AND MISLEADING STATEMENTS IN MNDS (FACTUAL ERRORS MAKE MND INADEQUATE)

In written comments on the MND, Randy Berkman asked: "Would any of the project occur within the Open Space designated area?" "Fully consistent with the Open Space land use designation of the Community Plan?"

Staff Reply #2: "The project is consistent with the Open Space Hillsides Element of the Community Plan and with the City of San Diego Zoning Designation." While the underlying zone is consistent, the proposal is not consistent with the Community Plan Open Space Hillsides Element since whole project exceeds the 150 foot elevation and intrudes the open space designated area. This is seen on Figure 4 in very small print.

Staff Reply #2: "The Planning Department originally requested a community plan amendment for the this project which partially intrudes into designated open space. After a redesign to reduce impacts and upon further analysis, the project was supported by the Planning Department for following reasons..." This Staff Reply is misleading in that the entire project intrudes into the designated open space rather than "partially."

Staff Reply #3 is misleading: "Refer to Figure 3 within the Mitigated Negative Declaration that shows the development footprint which is consistent with the land use designation per, Figure 5 (Land Use Plan) of the Mission Valley Community Plan." Figure 5 (Land Use Plan) of the MVCP is colored coded to show the land use designations. It does show "green"/open space where Sheidler Way ends. It shows "orange-red" for "Commercial Office" immediately north of the open space designation. The arrow drawn by staff and superimposed on the MVCP Figure 5, ends in the Commercial Office land use designation while passing through the open space designation. This leads the reader to think the plan is entirely in the CO designation of the MVCP and not in the Open Space designated area.

Reply #4 is misleading: "Only .8 acres will be graded and the design is consistent with both the ESL and MVPDO Hillside regulations." Since the proposal has sought an Exception from the PDO for exceeding the 150 foot elevation, it is not consistent with the PDO.

Reply 2c states: "Grading minimally disturbs the natural terrain." 630 dump truck loads is not minimal. This is discussed in the Land Use Impact section.

Reply 2b states: "Approximately 80% of the parcel is within the open space easement, allowing only a limited intrusion into the Open Space designation." While 80% of the parcel is an open space easement, again, the whole project is above 150 feet/in Open Space designation of MVCP. As discussed in Brush Management section, it appears reasonably foreseeable that impacts to the Open Space Easement will occur.

FINDINGS NOT SUPPORTED: INACCURATE, INCONSISTENT, OR MISLEADING STATEMENTS IN PROPOSED RESOLUTION FOR SITE DEVELOPMENT PERMIT

"The proposed development will not adversely affect the applicable land use plan." (p. 1).

"The northerly property line of the proposed 1.08 acre MV-CO zoned site is located at approximately the 148-contour line." (p.1) The MNDs state that the lowest part of site is at 136 foot elevation. (P. 2, Initial Study, FMND). The 1977 Map shows the lower part of the site at about 135 feet (Attachment 3). The 2004 site plan (Attachment 13) shows an earlier building plan base pad at 140 foot elevation.

"The proposal complies with the standards for the Mission Valley Community Plan, Mission Valley Planned District Ordinance.... and Environmentally Sensitive Lands Regulations Ordinance....". An Exception to the PDO is being requested.

"...does not propose to encroach into any areas of designated open space." (P. 3, 4) The entire project encroaches designated open space/above 150 foot elevation.

"...has been designed to minimize its impact on steep hillsides." Retaining wall and excavation conflicts with this statement are discussed in Land Use section.

"Altering the development criteria to allow a limited (or "minimal") encroachment above the 150 foot contour...." (P. 5, 7, 9). Again, the entire project exceeds the 150 foot elevation and is therefore not a "limited or minimal encroachment." At other times, staff has acknowledged: "Due to the open space easement, the project could not extend more than approximately 50 feet into the designated open space." What they don't mention, is that the "50 feet extension" includes the whole project. It is also relevant to note that 50 feet higher vertically is about 125 feet laterally up the slope according to scale diagrams.

"No deviations or variances are necessary." (p. 7) A deviation from the Municipal Code is being requested for exceeding the 150 foot elevation.

The Project Data sheet includes the following erroneous information:

- 1. Zone: fails to mention part of the site is zoned RS-1-1.
- 2. Community Plan Land Use Designation: fails to include Open Space.
- 3. Deviations or Variances Requested incorrectly states "None." The Site Development Permit on pages 2,3,7, 8 and 9 recognizes a deviation. (Potter and Associates Letter to Hearing Officer)

STAFF OMITTS KEY LANGUAGE FROM MISSION VALLEY PLANNED DISTRICT ORDINANCE (MVPDO) "EXCEPTIONS" FROM MARCH 31, 2006 MND (see P. 14 of MND) AND WHY EXCEPTION IS NOT ALLOWED UNDER PDO

The landowner and staff are seeking an exception from the MVPDO "Preservation of Steep Slopes" section:

"Development, including road construction above the 150-foot contour line shall not occur." (103.213(A))

This language even prohibits roads which may be in the public interest. Here, the proposal is for the private interest of a single landowner who bought the land for about \$50,000/acre--pennies on the dollar for Mission Valley office land. Whatever public benefit the doctor/landowner provides is already being provided through his practice a few miles to the east. For comparison, AAA paid over \$1 million/acre several years ago for Mission Valley flood plain land. This information should be considered as to whether there is any "hardship" in having the owner review smaller, down-slope options.

Page 14 of the March 31 MND quotes PART of the MVPDO Exceptions to justify approval of the project. However, staff omits the following essential language:

IMPACT OF SETTING THE PRECEDENT FOR DEVELOPMENT ENCROACHMENT ONTO AN UNDISTURBED TIER OF NATURAL HILLSIDE.” (CAPS ADDED)

In light of these findings, the Planning Commission voted 6-0 to deny the project. On Appeal, the City Council voted 5-3 to approve.

HARDSHIP NOT DOCUMENTED

The “evidence” provided by applicant supporting his claim of “unnecessary hardship” (as required by PDO to make an Exception) was not written by a construction expert.

Hearing Officer Didion directed assessment of alternatives at the November 2, 2005 hearing. City Attorney David Miller reiterated this in a January 13 email. The alternatives review presented to the Planning Commission has not been made available to the public as of this writing (June 27, 2006)—another severe negation of CEQA process.

At the April 19 Hearing, the landowner Robert Pollack testified that he is not a professional developer. While that may be true, the County’s real estate records website disclosed over 150 real estate transactions in his name, his family trust, and co-owner Lola Pollack. In light of his real estate experience and ultra low price paid for this land, asserting a “hardship” is not merited. Rather, the City should require review of less damaging options in an EIR.

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 MND

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 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.

The City’s DRAFT CEQA significance determination thresholds (2004) 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 (which may be applicable since the Draft version has apparently not been officially adopted) stated the same except that “will be considered significant land use impact” was the language instead of “may be considered

significant land use impacts.” This proposal’s total encroachment into MVCP designated open space 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 upslope. (See fine print of Figure 4 Diagram in MND). The inconsistency/conflict with the “minimal grading” MVCP guideline also triggers an EIR.

MVCP OBJECTIVE/PROPOSALS REGARDING CSS AND UNSTABLE SOILS

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.

“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.

Coastal Sage Scrub (CSS) is the most endangered habitat in the continental United States according to the EIR for the East Mission LRT. .83 acres of CSS would be lost. (P. 2, March 31 MND; an increase from .72 acre from the first Final MND)

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 Bowlby, 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. This issue is not addressed in the MNDs and was not addressed by the Hearing Officer or the Planning Commission.

STAFF MIS-STATES CITY CEQA SIGNIFICANCE LANGUAGE FOR VISUAL IMPACTS IN REVISED MND

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 scenic areas such as this. This project proposes 6300 cubic yards of grading over .83 acre which equals 7590 cubic yards/graded acre. 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, p. 6).

RETAINING WALLS OVER 1/4 MILE LONG: THE LONGEST IN THE CITY?

The Land Development Manual requires that the use of retaining walls be "minimized." (See Attachment 19).

The proposal calls for 1,601 linear feet of walls (retaining and Concrete Masonry Unit walls with a maximum height of 10 feet. (Page 12, Initial Study, January 3, 2006 FMND. The March 31 MND does not list this combined length of walls though since there has only been one revision to the retaining walls scheme, 1601 feet is presumed accurate). 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 FMND, the color photographic rendering (FMND, Figure 5) show 100% of the walls with no landscaping. The proposal is unusual again in that the photo shown to support the plan is persuasive evidence of another significant unmitigated visual impact. The landscaping costs, labor and maintenance of walls over 1/4 mile long make it unlikely that such a project would be any different than this photographic rendering. The 1/4 mile+ length of retaining walls—as high as 10 feet—suggesting a fortress—and the excavation of 630 dump truck loads of earth—nearly 4 times the City's significance threshold—triggers an EIR.

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.

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) 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 198 feet according to Figure 4.

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.

EVIDENCE THAT THIS PROPOSAL IS PROCESS 5

A June 3, 2004 letter (Attachment 7, 7 pages) from applicant attorney, J. Michael McDade, requests "Initiate Mission Valley Community Plan Amendment" for this proposal. "The MVCP Open Space Plan, which was adopted in 1985, protects hillsides from ANY (CAPS ADDED) development above the 150-foot contour line.....Therefore, despite being zoned for commercial development, development is prohibited because of the conflict with the restrictions above the 150-foot contour line, effectively depriving these parcels of economic use."

We do not agree that reasonable use of the property is prevented by these restrictions.

Attorney McDade's letter proposes exact MVCP Amendment language. One example:

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

- 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 (CAPS USED TO SHOW LANDOWNER ATTORNEY'S PROPOSED PLAN AMENDMENT LANGUAGE)

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/OFFIC USE AND BISECTED BY the 150-foot elevation contour. (CAPS USED FOR PROPOSED PLAN AMENDMENT)

Mr. McDade's letter is persuasive evidence that the proposal requires a MVCP Amendment and the Process 3 Hearing is inappropriate.

Development Services staff have also made written comments that the proposal requires a MVCP Amendment and is therefore Process 5:

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)"

Page 8 of the Cycle Issues Report (See: bottom of that page), written by Long Range Planner, John Wilhoit, states:

"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."

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

City Planner John Wilhoit wrote a "good news" email to consultant Kim Sheredy explaining why a MVCP was no longer being required. (Attachment 9, 1 page). This letter is not persuasive. The first reason given is that the proposal 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.

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. 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).

The third reason given is that "There is development abutting to the west that extends above the 150-foot contour into the designated open space." Again, even if true, this is irrelevant. However, a site visit by Eric Bowlby, found that the adjacent buildings did not appear to extend above the 150 foot contour. 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 in fact, the entire project would be above the 150 foot elevation according to the Figure 4 Map. Also, the plan extends horizontally over 100 feet horizontally up-slope according to scale diagrams.

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 stated in New Information, the open space easement will likely be permanently impacted for brush management/fire prevention. One half of the CSS will 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 (See: Attachment 16).

In sum, staff does not have the authority to suspend or "amend" the MVCP when they wish. This would be a decision for City Council. The Permit should be denied due to staff knowingly proceeding with the wrong Process 3 rather than the MVCP Amendment Process 5.

At the April 19 Hearing, City Attorney David Miller stated that the McDade letter is "irrelevant" since it referred to an earlier design of the project. However, this misses the point that the McDade letter seeks MVCP Amendment only for exceeding the 150 foot elevation and said not one word about the design of the building being inconsistent with the MVCP. The earlier design proposed exceeding 150 feet elevation and the current plan still does. Therefore, the McDade letter is as relevant to the current plan as it was to the prior version.

SUM

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 nearly 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 1977. Such cumulative impacts trigger a Mandatory Finding of Significance under CEQA.

A CEQA document with accurately described project/request for PDO Exception, has never been circulated for public comment. Elimination of a previously approved mitigation measures for fire prevention/public safety should have triggered re-circulation of the CEQA document—by City’s interpretation of CEQA. Such re-circulation did not occur. 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. The MND, despite three revisions and currently in its 4th edition, still has many false and misleading statements. Substantial evidence shows significant unmitigated impacts to visual quality, land use, and cumulative impacts of this precedent setting proposal—surpassing the CEQA threshold for an EIR. Staff required an EIR for a similar sized office building in 1977 and found unmitigated impacts. The landowner paid pennies on the dollar for the land and has not demonstrated deprivation of reasonable use of his land. A one story building below 150 foot elevation is feasible. A 2 story building with roof at or below 150 feet is feasible if excavation to a 120 foot base pad were done. Therefore, this Exception to the PDO 150 foot elevation restriction is unjustified. A Plan 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 the MVCP Amendment requirement.

SUM OF ISSUES NOT ADDRESSED OR INADEQUATELY ADDRESSED BY STAFF AND/OR PLANNING COMMISSION

1. 9 Retaining walls over 1600 feet total length are not a "minimized use" of retaining walls as required by the Land Development Manual. Rather, this may be the longest private use of retaining walls in city history. This is evidence of a land use impact and likely visual impacts.
2. 630 dump truck loads of cut is not minimal disturbance of natural terrain as required by MVCP and City Code. Rather, this is clear evidence of a land use impact as defined in the City’s CEQA Significance Determination Thresholds.
3. Staff has not addressed the precedent setting aspect of the plan which was seen by Planning Dept. of 29 years ago and part of why that plan was found to have significant unmitigated effects.
4. CEQA process severely thwarted: public denied right to comment on accurately described project. After Hearing Officer Didion directed staff to re-circulate the CEQA document, due to non-disclosure of plan exceeding 150' elevation limit, this was not done. For staff to assert "no new impacts" by disclosing this essential aspect of project (and PDO Exception request)--is absurd. One member of the MVUPG (Gail Thompson) voted approval of the plan last September--before he realized the Exception request. After he learned that the plan exceeded the PDO and MV Plan elevation limits, he voted in May to Appeal Hearing Officer approval. Proposed elimination of fire prevention/brush management is not allowed as stated in Land Development Manual. The public has been denied right to comment on this elimination of this proposal’s previously required by Code, fire prevention mitigation. Disclosure of plan "options" by applicant at Planning Commission was another severe negation of CEQA process. This should have been done in an EIR at start of CEQA process. As of this writing, we still do not have a copy of the alternatives review presented to the Planning Commission.
5. City Manager did not approve Exception to PDO request as required by Code. City document shows landowner was aware of PDO Exception requirement in November, 2003.
6. Land Development Manual states that Brush Management does not allow alternative compliance as proposed in May 31 errata sheet to MND. Without the deletion of brush management, impacts to the open space easement would occur from brush management. Such impacts to this easement are not permissible. Easement abandonments are Process 5. The open space easement is supposed to be preserved for public not private use. Counting impacts from brush management would add about .6 acre for a total development footprint of 1.43 acres or 28+% of site. This exceeds the 20% allowed. Alternative compliance for exceeding 20% is not allowed in designated open space according to the Land Development Manual and Municipal Code. Solution: redesign proposal down slope or seek another site for building.

7. Owner's attorney wrote that exceeding the 150 ft. elevation "prohibition" of the MV Plan would require a Plan Amendment. Extension of Scheidler Way into designated open space/steep hillsides/Coastal Sage Scrub is not shown on MVCP diagrams or referred to in the MVCP text. That shows this is a Process 5 not a Process 3 as staff alleges, Staff is relying on reasons created by former city planner John Wilhoit. Staff does not have the authority to suspend Mission Valley Plan open space requirements.

8. At the Planning Commission, staff did clearly disclose that the entire project would be in MVCP designated open space. This disclosure is inconsistent with numerous statements in MND and Permit Resolution. As Commissioner Chase stated, the Findings are "tortured."

9. MVCP states that hillsides with unstable soils, or endangered or rare vegetation or animals should be designated open space. Staff has not addressed this. "Impact and mitigate" is not avoidance of development as required by MVCP open space protections.

10. Recently disclosed architect's diagram from 2004 version of plan shows base pad of 140 feet with second floor starting at 154 ft. Digging down 20 ft. to a base pad of 120 ft. would allow a building with roof at 150 ft. This would be about the same size: 10000 sq. ft. Only a retaining wall from 150 to 160 ft. would exceed the PDO and MV Plan limit. Such an option would be far less damaging--with footprint and CSS impacts cut by more than 50% (Attachments 13, 14). Brush Management impacts to the Open Space Easement would be minimized or prevented because the eastern boundary would be an existing parking lot—acting as a fire zone buffer. According to the MNDs, 8800 square feet is developable below the 150 foot line. A pedestrian bridge could link to the far east part of the site should the owner decide to build at this part of site below the 150 foot contour line. The present proposal would use NONE of the MVPDO, MVCP compliant area below the 150 foot contour line/designated open space. It therefore would maximize impacts with about twice the development footprint and impacts to CSS—than the proposed reduced impacts option. CEQA is a search for less damaging options. The applicant's proposal therefore cannot be approved since it is the most damaging option to the steep hillside, CSS and MVCP designated open space/area above the 150 foot elevation.

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 of Development services. Shows land valuation of \$255,000. County real estate records indicate the owner paid \$250,000.
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 2nd level at 154 foot elevation (with superimposed reduced impacts concept).
14. City diagram with 150 foot elevation line through property. Used to show reduced impacts concept on lowest, least steep portion of site.
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?" 1st page of California State brochure describing brush management requirements.

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."

PLANT MATERIAL LEGEND

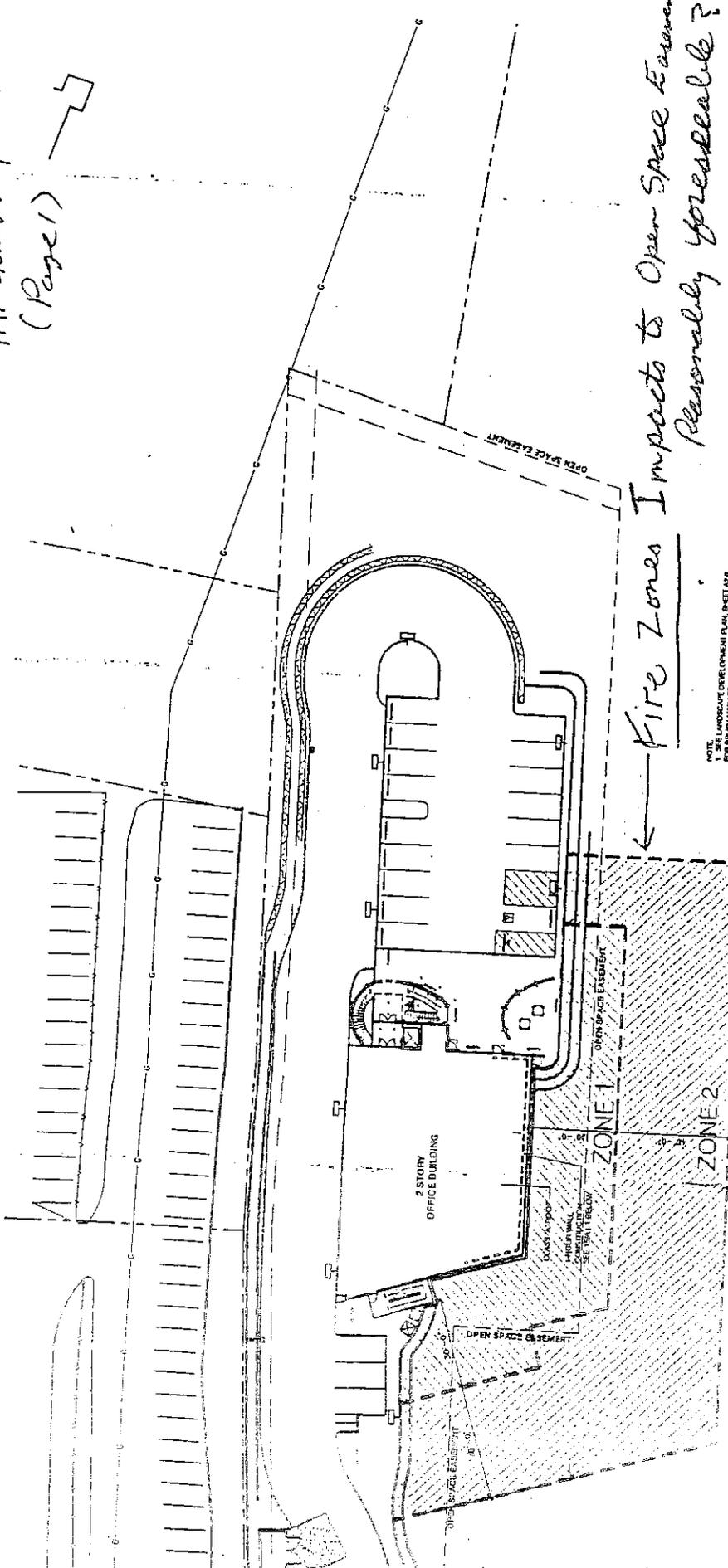
HEIGHT * SPREAD (AT MATURITY)
--- MATURE TREE / STREET TREE (FORM STANDARD / UPRIGHT)

ATTACHMENT 1

Attachment 1
(Page 1)

LEARY CHILDS MASCARI WARNER Architects

PACIFIC COAST OFFICE BUILDING
SCHEIDLER WAY



Fire Zones Impacts to Open Space Element
Possibly Resolvable?

NOTE: SEE LANDSCAPE DEVELOPMENT PLAN SHEET 422 FOR BRUSH MANAGEMENT LANDING AND PLANTING PLAN IN ZONES 1 AND 2.

Fire Zone 1 extends 5 feet further; 35 ft wide
Fire Zone 2 extends 30 feet further; 65 ft wide
due to new City laws

SEE PAGE 5, AMNS Initial Study.

100 ft. wide total



SCALE: 1"=20'-0"

3

LEGEND

SOLID CHROUTED 8" DIA WALL

CURTAIN: CEMENT PLASTER
SIBRI SPACE
EXTERIOR 45 MINUTE DOOR SHOWN
DASHED FOR GLASS
PIPE LUSING: ANCHOR PER
HOLLOW METAL FRAME MANUFACTURERS
DESIGN
IS GA. HOLLOW METAL DOOR FRAME

1977 EIR
for same site

Attach 2
(1 page)

ANALYSIS OF IMPACTS

I. GEOLOGY AND SOILS

IMPACT SCORE

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

<u>Rating</u>	<u>Small</u>	<u>Medium</u>	<u>Large</u>
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 II, pg. 32)

<u>Rating</u>	<u>Small</u>	<u>Medium</u>	<u>Large</u>
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 II, pg. 13.)

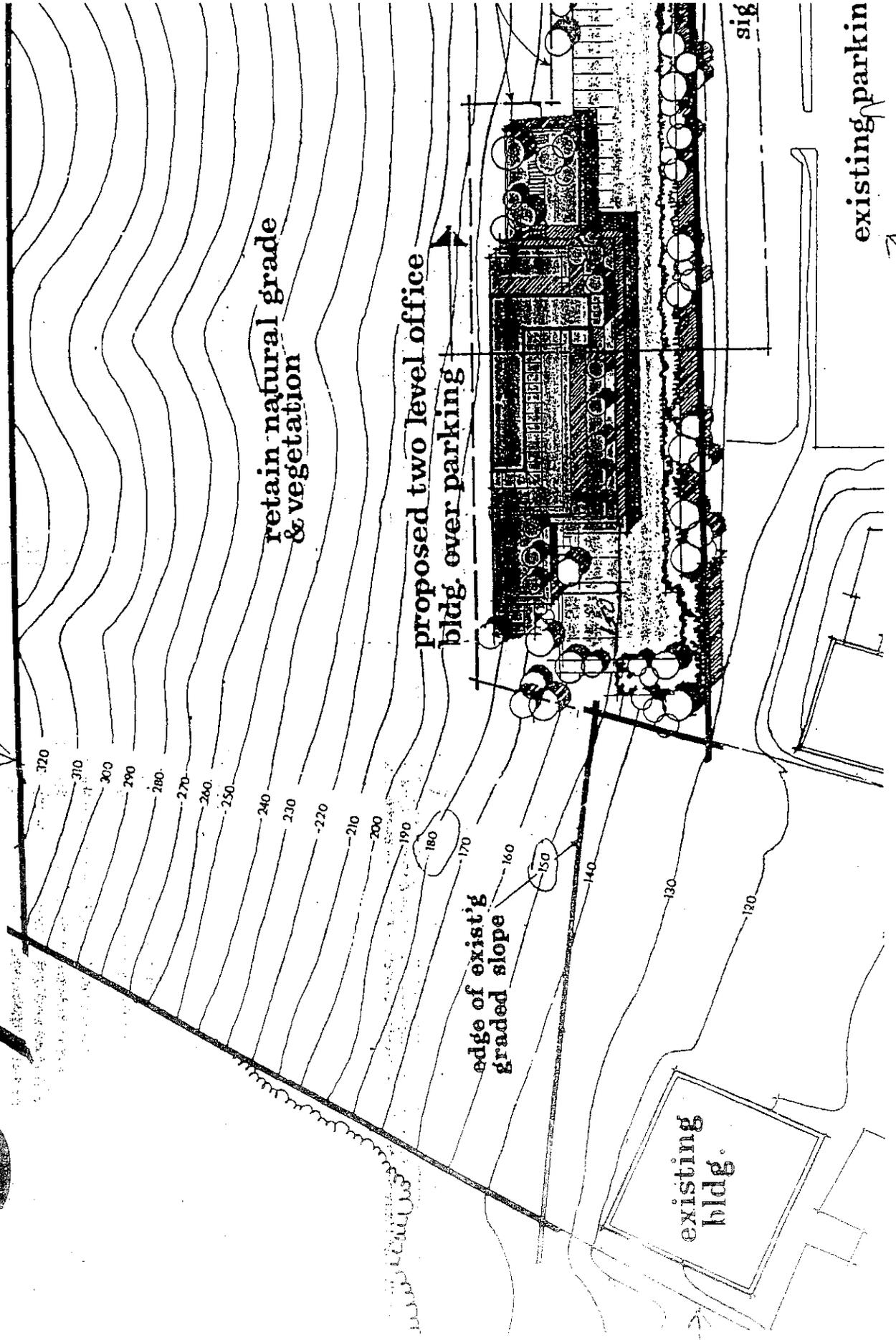
no resource present	0	0	0
sand or gravel	0	0	1
decomposed granite	0	0	1

Vertical Scale Level

1977 proposal

Elevations

35



retain natural grade & vegetation

proposed two level office bldg. over parking

edge of exist'g graded slope

existing bldg.

existing parkin

sig

4.	Is the site rated as <u>agricultural land</u> (good or fair)? (See Soil Survey, Book V, pp. 80-83)			
a)	not rated as agricultural	0	0	0
b)	not used for agriculture and surrounded by urbanization	0	1	1
c)	not used for agriculture but surrounded by agriculture and/or open space	1	1	2
d)	currently or previously used for agriculture	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	0	0	0
	yes	3	3	3
6.	Will the project involve grading: <input checked="" type="radio"/> yes <input type="radio"/> no			
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%?			
	Volume of grading			
	no grading in unique areas	0	0	0
	0-3000 cu. yd./ac.	1	1	1
	3-6,000 cu. yds./ac.*	2	2	2
	greater than 6,000 + cu.yd./ac.	3	3	3

7590 cubic yards per graded acre for 2006 plan

* 6,535 cubic yards/ acre

for 1999 plan

M# 51, Page 1
(3 pages)

PLANNING

REPORTS

CITY PLANNING DEPARTMENT - SAN DIEGO, CALIF. 92101

236-6460

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-805. 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., 3½ 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 Chapparel 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.

77-03-18

Page 3.

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.



Environmental
Quality
Division

236-5775

RECEIVED
JULY 2 PH 3:13
SAN DIEGO, CALIF.

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

COPY

jrb223@hotmail.com

Reply | Reply All | Forward | Delete | Junk | Put in Folder | Print View | Save Address

Print View | Save Address | In

Attachment

From : Elizabeth Lucas <ELucas@dfg.ca.gov>
Sent : Tuesday, December 20, 2005 1:19 PM
To : <jrb223@hotmail.com>
Subject : Re: Diegan CSS question

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 US. 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" <jrb223@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

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Mr. John Wilhoit
June 3, 2004
Page 2

Affekt. 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.”

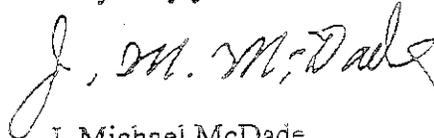
“(a)(3) The amendment is appropriate due to a material change in circumstances since the adoption of the land use plan, whereby denial of initiation would result in hardship to the applicant by denying any reasonable use of the property.”

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. Michael McDade

of

SULLIVAN WERTZ McDADE & WALLACE
A Professional Corporation

Enclosures

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

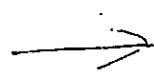
OBJECTIVE

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.

H. Hark -1
(P. 4)



- 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.

Attach. 1
(P. 5)

- 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.

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.

Attach. 7
(P. 7)

This redlined draft, generated by CompareRite (TM) - The Instant Redliner, shows the differences between -
original document : S:\CLIENTS\5059\011\DM\MISSIONVALLEYCP.DOC
and revised document: S:\CLIENTS\5059\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



THE CITY OF SAN DIEGO
Development Services
1222 First Avenue, San Diego, CA 92101-4154

Attach 8

3/23/2004 12:38:37 PM

P. 1

-Page 1 of 12

LG4A-003A

Project Information

27782 Pacific Coast building

Project Mgr: Tripp, Bill (619) 446-5273 wtripp@sandiego.gov

Development: 24720 Pacific Coast building

(7 pages)



Review Cycle Information

Review Cycle: 1 Preliminary Review [Closed]

Deemed Complete on 1/28/2004 15:57:56

Opened: 1/20/2004 02:10 PM

Closed: 3/23/2004 12:34 PM

Submittal: 1/28/2004 03:57 PM

Review Information

Reviewing Discipline: LDR-Planning Review

Reviewer: Mezo, Renee

Next Review Method: Preliminary Review

Requested: 1/30/2004 12:38 PM

Assigned: 2/3/2004 09:09 AM

Reassigned:

Started: 2/4/2004 01:40 PM

Completed: 2/17/2004 11:48 AM

Needed Again:

Cleared? Issue Number and Description

Prelim Comments

*Process 5 over
to Plan Amendment.
see Long Range
Comments) p. 8*

- 1 The proposed project is located in the MV-CO zone, the Hillside Design Subdistrict, Area K of the Development Intensity District and Area 3 Traffic -Threshold One within the Mission Valley Community Plan.
- 2 A Site Development Permit, Process 3 is required for development within Environmentally Sensitive Lands, section 143.0140, Steep Hillside section 143.0142 and Sensitive Biological Resources section 143.0141. The proposed project must conform to the Land Development Code, Steep Hillside Guidelines and the Biological Guidelines.
- 3 Response to Applicant question #1:
Yes, per section 103.2107(2) the maximum encroachment allowance is 20%.
- 4 Response to Applicant question #2:
see comments from the Environmental Analysis Section(EAS).
- 5 Response to Applicant question #3:
Staff could not support a deviance to code section 103.2107(3)(A).
- 6 Response to Applicant question #4:
No, a Community Plan Amendment may be required. Refer to comments from Long Range Planning and Transportation Planners.
- 7 Response to Applicant question #5:
The proposed project is located in Area K of the Development Intensity District and Area 3 Traffic Threshold One within the Mission Valley Community Plan.
See also Transportation comments.
- 8 Response to Applicant question #6:
The Mission Valley PDO, the Municipal Code and the Mission Valley Community Plan govern the development of the property.
- 9 Response to Applicant question #7:
The proposed project lies entirely within the Mission Valley Community Plan.
- 10 Response to Applicant question #8:
See comments from EAS
- 11 Response to Applicant question #9:
see comments from Open Space and/or Long Range.

Cycle Issues

L64A-003A

THE CITY OF SAN DIEGO
Development Services
1222 First Avenue, San Diego, CA 92101-4154

3/23/2004 12:38:37 PM

Project Information

27782 Pacific Coast building

Project Mgr: Tripp, Bill (619) 446-5273 wtripp@sandiego.gov

Development: 24720 Pacific Coast building

Attachments

(2 pages) (P.2) Page 8 of 1



Review Cycle Information

Review Cycle: 1 Preliminary Review [Closed]

Deemed Complete on 1/28/2004 15:57:56

Opened: 1/20/2004 02:10 PM

Closed: 3/23/2004 12:34 PM

Submittal: 1/28/2004 03:57 PM

Review Information

Reviewing Discipline: Fire-Plans Officer

Reviewer: Medan, Bob

Next Review Method: Preliminary Review

Requested: 1/30/2004 12:38 PM

Assigned: 2/3/2004 09:40 AM

Reassigned:

Started: 2/6/2004 09:54 AM

Completed: 2/6/2004 10:26 AM

Needed Again:

Fire Dept. Issues (1st review)

Cleared? Issue Number and Description

- 1 Provide building address numbers, visible and legible from the street or road fronting the property per FHPS Policy P-00-6 (UFC 901.4.4) - provide as a note on the site plan.
- 2 Show location of all existing hydrants, within 600', on site plan. (UFC903.2)
- 3 Provide fire access roadway signs or red curbs in accordance with FHPS Policy A-00-1 - provide as a note on the site plan.
- 4 Comply with City of San Diego Landscaping Technical Manual for brush and landscaping. (Appendix II-A, Section 16)
- 5 Building is required to be sprinklered for the following reason: Believe surgical spaces, etc. will be classified I-1.2 occupancy and, therefore, will require fire sprinklers.
- 6 Post indicator valves, fire department connections, and alarm bell are to be located on the address/access side of the structure. UFC 1001.4 - provide as a note on the site plan.
- 7 Proposed "grasscrete" access shall meet Fire Department Policy A-96-9 (provided at the meeting).
- 8 What is the building height (measured from the paved parking surface to the top of the building)? If more than 35' additional access requirements for aerial ladder access must be provided.
- 9 What are you proposing as an occupancy classification for this building?
- 10 Proposed fire lane is more than 300; long - 26' minimum width required, not 24' as proposed.
- 11 Proposed turn around does not meet Fire Department access policy. Discuss at the meeting (copy of policy will be provided).
- 12 Possible on-site fire hydrant required.
- 13 Question 1 - No, discuss at the meeting.
- 14 Question 2 - vehicle access on one side is acceptable provided hose coverage meets Fire Department requirements. Discuss at the meeting.
- 15 Question 3 - yes.

Review Information

Reviewing Discipline: Plan-Long Range Planning

Reviewer: Wilhoit, John

Next Review Method: Preliminary Review

Requested: 1/30/2004 12:38 PM

Assigned: 2/6/2004 12:36 PM

Reassigned:

Started: 2/23/2004 09:06 AM

Completed: 2/23/2004 09:52 AM

Needed Again:

Cleared? Issue Number and Description

- 1 The entire property is within the Mission Valley Community Plan area.
- 2 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.



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: Manis, Bob

*Attach 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-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 coterminal according to our records. Let me know if you have any questions.

John Wilhoit
Senior Planner

From: Jim Peugh (peugh@cox.net)

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

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

Attachment 10

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 plant 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 Halsey 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

/mail/mail.aspx?Control=ReadMessage&ReadMessageID=8129ebd0-04f1-42ea-819a-9d726696dce7&FolderID=00000000-00



Parcel Information Report

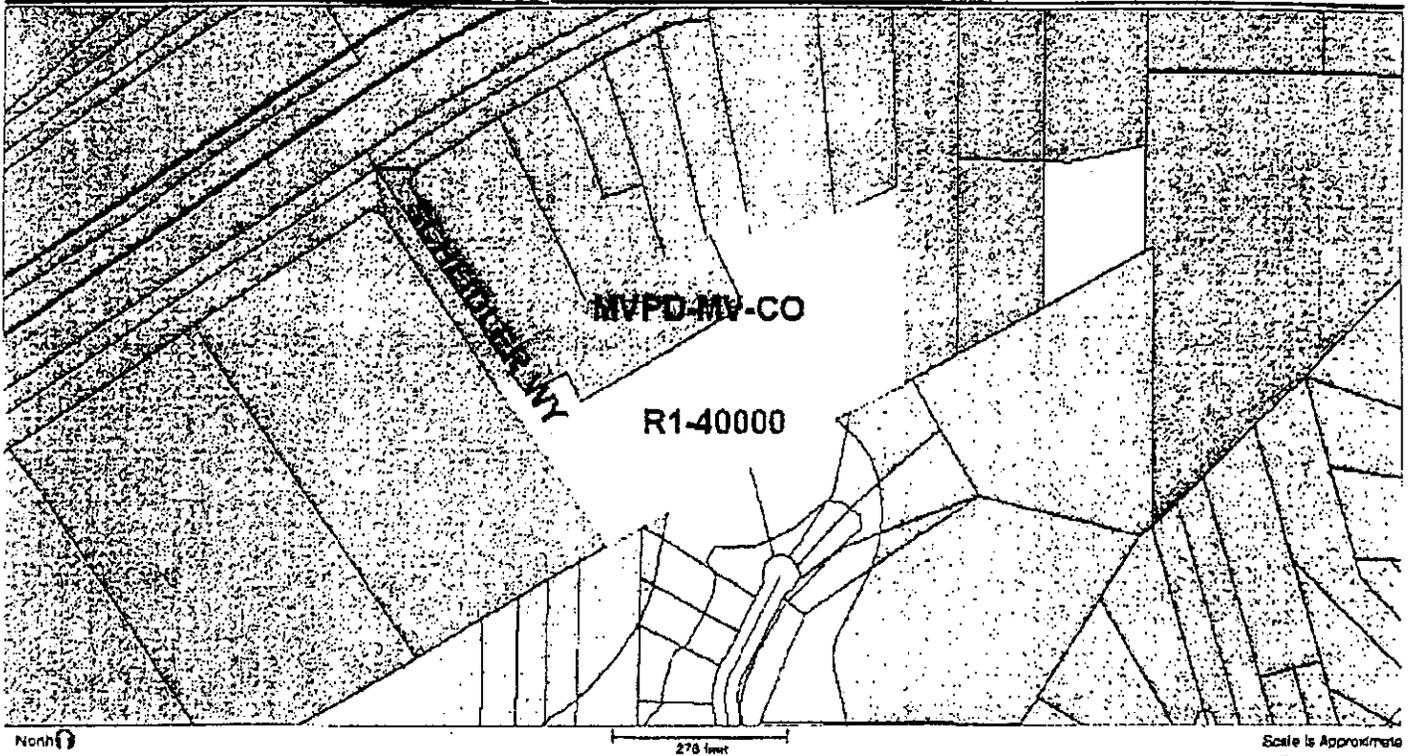
THE CITY OF SAN DIEGO
Development Services
1222 First Avenue, San Diego, CA 92101-4164

Attach: 11

11/1/2005 14:58:21

Report Number 101

Page 1 of 2



Map Layers Included In Report

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

Every reasonable effort has been made to assure the accuracy of this map. However, neither the SanGIS participants nor San Diego Data Processing Corporation assume any liability arising from its use.

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PROPRIETARY INFORMATION: The use of this information is pursuant to sublicense agreement only. Any resale or re-licensing of this information is prohibited, except in accordance with such sublicense agreements.

Intersecting Features

Parcels

APN	Recordation	Owner Information	Valuation	Other
438-480-2400	Record: 443846 Date: 12/5/2003	PACIFIC COAST ASSETS L L C	Land: \$255,000	Units: 0
	Legal:	9570 GRANOVIEW DR LA MESA CA	Imp: \$0	Taxable: <input checked="" type="checkbox"/>
Address(es):	LOT 1 (EX ST OPS)	91941	Total: \$255,000	Own Occ: <input type="checkbox"/>

Community Plan

Community Plan Name	Code
MID-CITY: NORMAL HEIGHTS	59
MISSION VALLEY	19

Board Members

Judy Elliot-Chair
5054 Mansfield Street

Jim Baross
3335 N. Mountain
View Dr.

Charles Bowling
4580—40th Street

Jared Bradley
3227 Madison Avenue

Morris Dye
5080 Mansfield Street

Steven Jareb
4729 Felton Street, #B

Kelly Kreuzinger
4770 - 32nd St. #7

Suzanne Ledeboer
3540 Eugene Place

Jessica McGee
5004 Mansfield Street

Holly Ritter
3832 Madison Avenue

Earlene Thorn
4574 Cherokee
Avenue

David Van Pelt
4811 Mansfield Street

4649 Hawley Blvd.
San Diego, CA 92116

Contact: Judy Elliot
(619) 428-5200

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.

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 also urge Mr. Pollack to revise his plans so that his building does not encroach into the 150' canyon contour line.

Sincerely,

Judy Elliot

Judy Elliot
Chair

Pacific Coast Office Building
Page 3

Attachment 12
(pages)

Thank you for your consideration.

Sincerely,

David A. Potter, AICP

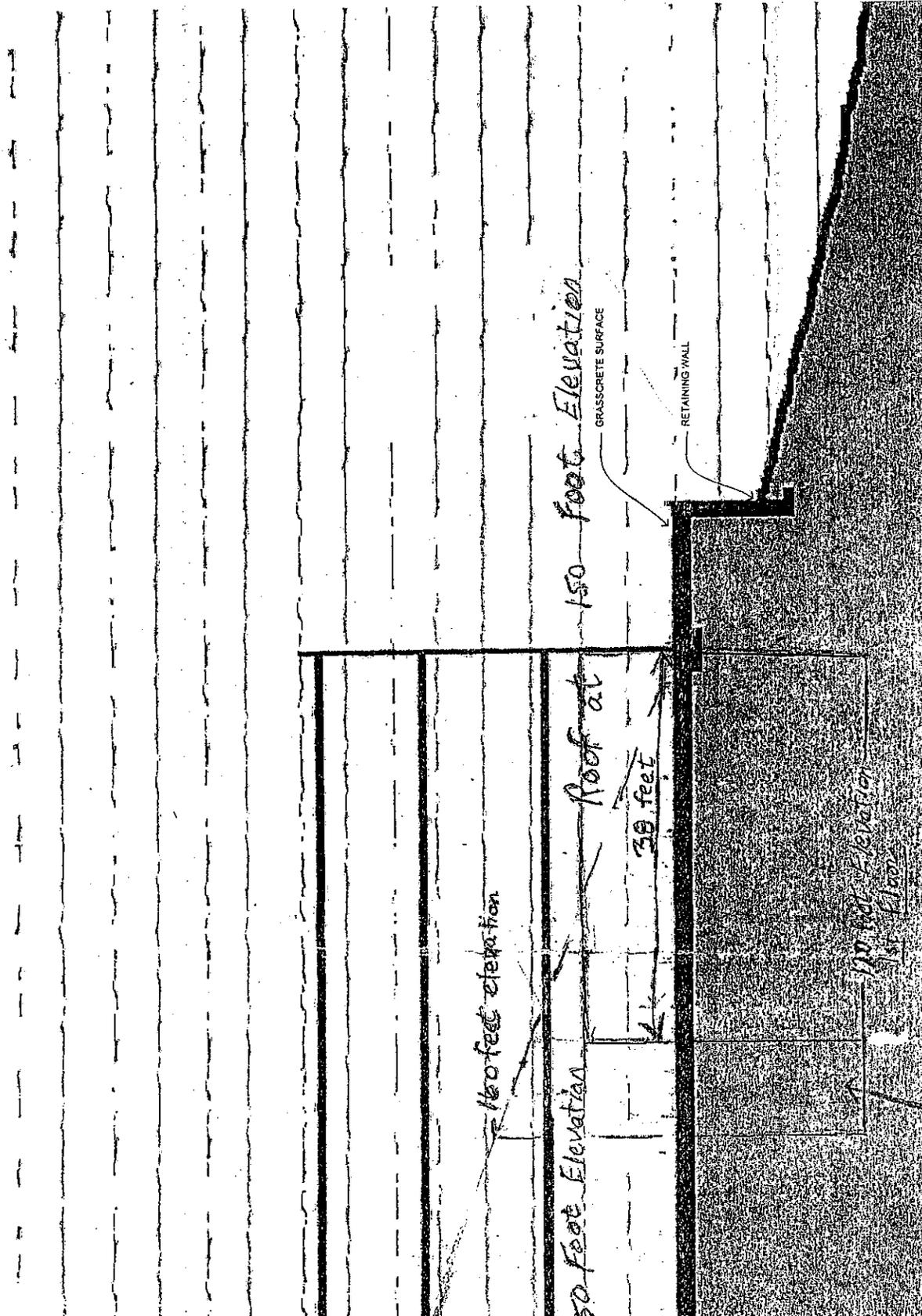
cc: Gary and Nancy Weber
Councilmember Frye, District 6
Councilmember Atkins, District 3

2 Story, 30 Foot high, 10,000 square feet

Reduced Impacts Option

Roof of Building at 150 Feet
Elevation: Compliant with
Mission Valley Plan, PDD

Plan

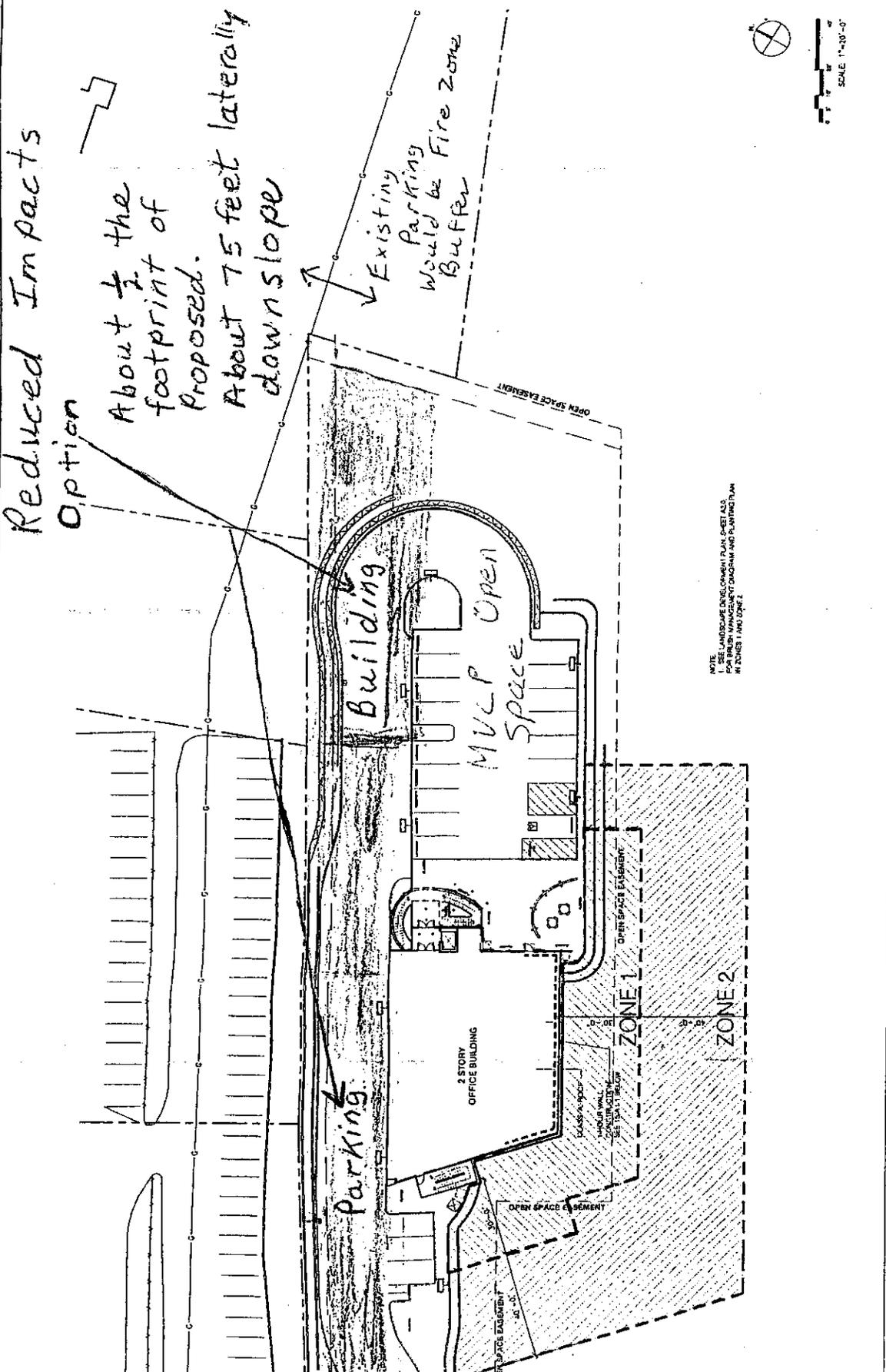


Attachment 14

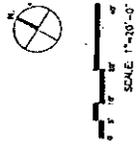
LEARY CHILDS MASCARI WARNER
ARCHITECTS
9845 Frma Road, Suite 205
San Diego, California 92131
619.595.0444 Fax 619.595.8922

Attachment 14

PACIFIC COAST OFFICE BUILDING
SCHEIDLER WAY
SAN DIEGO, CALIFORNIA



NOTE:
1. SEE LANDSCAPE DEVELOPMENT PLAN, SHEET ALS.
2. SEE IRRIGATION SCHEDULE, SHEET IRR.
3. SEE FIRE MANAGEMENT DIAGRAM AND PLANTING PLAN, SHEETS FMDF AND FMDF-1.



3

LEGEND

- PROPERTY LINE
- IRRIGATION CANALS
- OPEN SPACE EASEMENT
- LANDSCAPE CONSTRUCTION WALLS & FENCE

NOTE: BRUSH MANAGEMENT BY WIRE REQUIRED WITHIN 18 THIRTY FEET SET BACK ADDITIONAL WITHIN 30 FEET ADJACENT TO 2-7' ADDITIONAL WITHIN 60 FEET WITHIN 100 FEET. A LANDSCAPED WALL/PAVEMENT DESIGNATION PER DETAIL, SHEET LAM-1 AND LAM-2.

DOOR JAMB AT MASONRY

- ENTRANCE: GYPSUM PLASTER
- SHAW SPACE
- EXTERIOR AS WHITE DOOR SHOWY DASHED FOR CLARITY
- THE MASONRY ANCHOR PER DESIGN HOLLOW METAL FRAME MANUFACTURER'S DESIGN
- 1 1/2" HOLLOW METAL DOOR FRAME
- CONTINUOUS CHALKING
- CONCRETE MASONRY UNITS

SOLID (ROUTED) 3" CMU WALL

RESEAL AND COUNTERFLASHING THROUGH OR APPROXIMATE EQUAL

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

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

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 gnatcatchers, southern California rufous-crowned sparrow, cactus wren, and the San Diego black-tailed jackrabbit. Remaining impacts would not be significant due to the relatively small amount of habitat affected.

AH attachment # 16

P.1

-37

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...
(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.

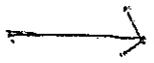
SIGNIFICANCE DETERMINATION

The following will be considered significant land use impacts:

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

of a community or general plan.

Attach #16 page 2



2. Inconsistency conflict with an adopted land use designation or intensity and indirect or secondary environmental impacts occur (for example, development of a designated school or park site with a more intensive land use could result in traffic impacts).

(habitat impacts, open-space designation)

3. Substantial or extreme use incompatibility, for example, a rock crusher in a residential area; CUPS sometimes create impacts because conflicting uses

are proposed.

- 4. Development or conversion of general plan or community plan designated open space to a more intensive land use.
- 5. Incompatible uses in an aircraft accident potential area as defined in an airport land use plan.
- 6. Inconsistency conflict with adopted environmental plans for an area. For example, development of a non-designated use within the boundaries of park master plan would fall into this category.

WHY 100 FEET

WHEN CREATING DEFENSIBLE SPACE, KEEP THESE SAFETY TIPS IN MIND:

All equipment with an internal combustion engine must be equipped with an approved and operable spark arrestor. Metal blades striking rocks can create sparks and start fires. Use caution. To protect water quality and habitat do not remove vegetation associated with water, avoid using heavy equipment near waterways and do not clear vegetation near waterways to the bare mineral soil. Keep soil disturbance to a minimum.

OTHER TIPS TO SECURE A LEAN, CLEAN AND GREEN ZONE.

Select less flammable plants for your **Lean, Clean and Green Zone**.

Shorter plants (less than 2 feet) are safer than taller ones.

If kept **green**, herbaceous plants (grass and non-woody flowers) are better choices than shrubs and trees.

If planting shrubs and trees, choose deciduous (trees that shed their leaves) ones over evergreens. Avoid planting juniper, pine and palms.

Remove tree limbs that are touching the house or deck, or are within 10 feet of the chimney. If limbs are encroaching on overhead lines, contact your telephone or power company for removal.

Use hard surfaces (concrete, stone, asphalt, brick, etc.) in your landscaping.

Clear ALL flammable vegetation from within 10 feet of propane tanks.

YOUR RESPONSIBILITY:

California law (PRC 4291) requires property owners and/or occupants to create 100 feet of DEFENSIBLE SPACE around homes and buildings.*

YOUR GOAL --- TO CREATE A:

Lean, Clean and Green Zone

An area of 30 feet immediately surrounding your home.

Reduced Fuel Zone

The fuel reduction zone in the remaining 70 feet (or to the property line).

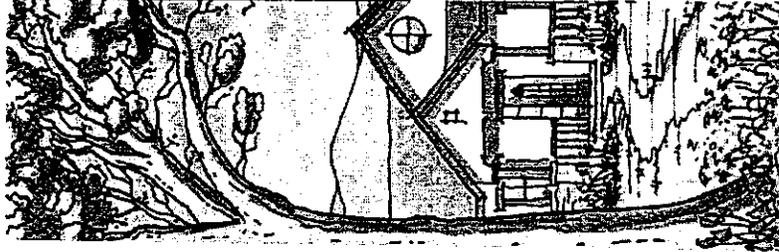
* Compliance with PRC 4291 is required by any person who owns, leases, controls, operates or maintains a building or structure on or adjoining any, or numerous acres, forest-covered lands, brush-covered lands, grass-covered lands or any land that is covered with flammable material and is within the State Responsibility Area. PRC 4291 requires 100 feet of defensible space for the property line if less than 100 feet from every building or structure that is used for support or shelter of any use or occupancy.

Owner, lessee or operator must also comply with all existing environmental protection laws and must obtain all necessary permits. Contact your local resource or planning agency officials to ensure compliance with federal, state and local requirements.

Contact your local CDF office, fire department,

or Fire Safe Council for tips and assistance.

www.fire.ca.gov



WHY 100 FEET?

Protect Your Home... and Property.

Contact your local CDF office, fire department, or Fire Safe Council for tips and assistance. www.fire.ca.gov

A Hochman 2017

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, on 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 - BRUSH MANAGEMENT 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 **brush management** plan. Refer to LDC Sections 142-0412 (c) (d) (e) (f) & (i)

11.3.2

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

11.3.3

Brush Management Plan : Provide a **brush 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 requirements (LDC 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

Brush Management Program: Provide a description of the proposed **Brush Management** program with the following

information [refer to LDC Sections 142.0412 (g), (h)]

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 142-04H indicating the Zone depths that the **Brush 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 **submittal** 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

Dimensions: 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

9 walls
1600 ft.
total length

(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 hillsides 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