BARB

In the FEIR, they are narrowing the California Department of Fish and Game's definition of what constitutes a stream, in order to serve their purposes. See attached Page III-92 from FEIR, where they state that Fish and Game "basically" defines a stream as having a defined bed and bank.

See attached Page V.D-9 from DEIR for a wider definition, with a full description from Fish and Game. Environmental Services Division (ESD). 1994. A Field Guide to Lake and Streambed Alteration Agreements, Sections 1600-1607, California Fish and Game Code. A stream can include water of a much more "ephemeral" nature. It seems obvious that water may not be there during a drought. During 2007, the entire Los Angeles area had its least rainfall in many, many years, an issue they did not address.

See attached page from MSPSP for their definition of a stream, which includes watercourses shown on city maps that may not currently support riparian vegetation.

Also on Page III-92 from the FEIR, they find evidence of "sheet flow" and mention an "undulating area" at the northeastern end of the proposed project site, but dismiss the area as a "low point in some upland habitat." They *assume* the culvert into which they *assume* the blue-line stream was diverted flows under the proposed project site to an off-site location. And they do admit to the neighboring Girard Reservoir site being a wetlands area. (See attached Page III-126 from DEIR).

They also discount the existence of riparian vegetation in both the FEIR and the DEIR. (See attached page III-58 from FEIR) How they do it is more of a philosophical argument than one based on observation: No stream exists, therefore riparian vegetation cannot exist.

However, willow scrub is known to occur in riparian areas, and willow scrub is present. Perhaps since there is willow scrub on the property, there is a stream, if only according to Fish and Game's broadest definition of one. If a stream exists, therefore the existing willow scrub is riparian.

With conflicting information in the DEIR and the FEIR, and the use of assumptions instead of hard facts, there are still too many unknowns for them to have proved that no stream of some type exists.

*Pages 2 & 6 from Teracor's General Biological Assessment in the DEIR provided for additional reference.

topographic maps, and even those that have been photo revised are out of date. These may often display blue-lines where none is today because when they were made, there may have been a drainage present, or low topography was mapped because it resembled a drainage. When topographic maps are photo revised, no attempt is made by the US Geological Survey to determine if blue-lines are actual drainages. This type of confirmation is typically done by scientists or consultants working on projects. Because of this, blue-lines are not automatically subject to the jurisdiction of the US Army Corps of Engineers or the California Department of Fish and Game. A stream, creek, or drainage in general is defined as a body of water with a detectable current, confined within a bed and bank. However, the term "stream" is an umbrella term sometimes used in the scientific community to define all flowing natural waters regardless of size. In the United States, a *blue-line* stream is one which flows for most or all of the year and is marked on topographic maps with a solid blue-line. An *intermittent* stream is one that only flows for part of the year and is marked on topographic maps with a line of blue dashes and dots. In general, steams that form only during and immediately after precipitation are termed *ephemeral*. There is no clear demarcation between surface runoff and an ephemeral stream. The California Department of Fish and Game basically defines a stream as having a defined bed and bank, with either surface or subsurface flow, either year round or ephemerally. The important feature is a defined bed and bank that displays evidence of flow.

Based on site reconnaissance, it has been determined that the blue-line feature was historically altered. An approximately 81-inch storm drain exists at the corner of Mulholland Drive and Mulholland Way, south of the project site, across Mulholland Drive. No recent maintenance had occurred in this area. At this point, the blue-line stream flow is conducted via an underground culvert from the south, under Mulholland Drive toward the project site. No evidence of a culvert(s) was observed in the southern portion of the project site where it would be assumed one should be to connect with the storm drain to the south across Mulholland Drive. It is assumed the culvert conveys flows under the proposed project site to an off site location. Evidence of sheet flow was observed during the site visit in the southern and central portions of the project site.

No drainage was observed with bed and bank morphology. There is an undulating area at the northeastern end of the proposed project site, but this area is simply a low point in some upland habitat. The low point was covered with leaf litter and did not show evidence of flow or scour. The vegetation surrounding the undulations was not indicative of a wetland or water course. Sheet flow was evident throughout the site, but most obviously in the southern and central portions of the project site. In addition, flows directed through a culvert/ storm drain system are no longer considered blue-line features, and typically are not jurisdictional.

In conclusion, the proposed project site does not support a blue-line stream.

Lastly, the analyses in the Draft EIR did not disregard Fish and Game. The Fish and Game NOP letter stated that wetlands and watercourses must be retained; however, this can only be accomplished if such features are actually present on-site. An assessment of the project site by several biologists (TeraCor and CAJA) with years of wetland and water delineation experience concluded that jurisdictional features were not present and, therefore, a formal delineation of such features was unnecessary. In addition, Fish and Game did not raise any concerns regarding this issue in their Draft EIR comment letter; their comment to

Streams, Lakes, and Riparian Habitat – Fish and Game Code Section 1600-1616

Streams and lakes, as habitat for fish and wildlife species, are subject to jurisdiction by the CDFG under Sections 1600-1616 of the State Fish and Game Code. Alterations to or work within or adjacent to streambeds or lakes generally require a 1602 Lake and Streambed Alteration Agreement. The term stream, which includes creeks and rivers, is defined in the California Code of Regulations (CCR) as follows: "a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation" (14 CCR 1.72). In addition, the term stream can include ephemeral streams, dry washes, watercourses with subsurface flows, canals, aqueducts, irrigation ditches, and other means of water conveyance if they support aquatic life, riparian vegetation, or stream-dependent terrestrial wildlife.[13] Riparian is defined as, "on, or pertaining to, the banks of a stream;" therefore, riparian vegetation is defined as, "vegetation which occurs in and/or adjacent to a stream and is dependent on, and occurs because of, the stream itself."[14] Removal of riparian vegetation also requires a Section 1602 Lake and Streambed Alteration Agreement from CDFG.

Local

Mulholland Scenic Parkway Specific Plan

The project site lies within the Mulholland Scenic Parkway Specific Plan ("Specific Plan") area, which is comprised of Mulholland Drive right-of-way, inner corridor, outer corridor and the institutional use corridor. The project site is located within 500 feet of the Mulholland Scenic Parkway right-of-way, which is referred to as the Inner Corridor (see Table V.F-2 for the inner corridor regulations). The Specific Plan is intended to preserve, protect, and enhance the unique natural and cultural resources in the plan area. To accomplish these goals, the plan undertakes to provide that design and placement of buildings and other improvements preserves, compliments and/or enhances views; minimizes grading and assures that graded slopes will have a natural appearance. Additionally, the Specific Plan seeks to preserve the natural appearance compatible with the characteristics of the Santa Monica Mountains, including the following environmental resources: prominent ridges, streams, parklands, and oak trees.

City of Los Angeles Protected Tree Ordinance

In April 2006, the City of Los Angeles' Oak Tree Ordinance was amended to become the "Protected Tree Ordinance." Ordinance 177,404 amends Sections 12.21 A 12, 17.02, 17.05 H 7, 17.05 R, 17.06 B 13, 17.06 C, 17.51 D, and 17.52 I of the Zoning Code to assure the protection, and regulate the removal, of four species of native trees, specifically all native oaks (*Quercus* sp., with the exception of *Quercus dumosa,* aka *Q. berberidifolia,* scrub oak), Southern California black walnut (*Juglans californica*),

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[13] *California Department of Fish and Game. Environmental Services Division (ESD). 1994. A Field Guide to Lake and Streambed Alteration Agreements, Sections 1600-1607, California Fish and Game Code.*

[14] *Same as above.*

Objective 1.3. *Ensure that projects located near parklands and streams are especially sensitive to native plants, wildlife corridors, recreational resources, minimal grading and alteration of the terrain, and visibility from the parkland.*

❑ **Guideline 15:** **Streams.** In accordance with the purposes of the Plan to protect streams, the DRB will be carefully reviewing all projects near streams. No project is to be constructed and no more than 100 cubic yards of earth shall be moved within 100 feet of either stream bank without the Director making the five specific findings required by the Specific Plan Ordinance. Avoid construction activities — building or grading — that would adversely affect the aquatic, biologic, or other existing features or characteristics of a stream. The streams protected by the Specific Plan are those water courses designated by the U.S. Geological Survey and shown on the maps available for viewing at the Department of City Planning's Van Nuys office and the Department's web site. A stream may include a water course having a surface or subsurface flow that supports or has supported riparian vegetation.

❑ **Guideline 16:** **Parkland.** In accordance with the purposes of the Plan to protect environmentally sensitive areas and topographic features, the DRB will be carefully reviewing projects near any public parkland. No project is to be erected and no earth shall be graded within 200 feet of the boundaries of any public parkland without the Director making the five specific findings required by the Specific Plan Ordinance. Avoid construction activities that would adversely affect the use and enjoyment of parkland by the public. A parkland is any publicly-owned or publicly-operated property that is used by the public for recreational, open space or preservation purposes. Parklands specifically include city parks, state parks,

driveway. The Woodland Hills Warner Center Neighborhood Council is working to eliminating the creation of any new flag lots, and the project should eliminate flag lots entirely.

Response:

Please refer to Response to Comment No. 5-12.

Comment No. 18-11:

The DEIR downplays the occurrence of important animal and plant species on the project site, but both CEQA and the Santa Monica Mountains Conservancy agree that many sensitive species may be there, whether they were spotted recently or not. The project site is in close proximity to large expanses of relatively undisturbed open space located to the south of Mulholland Drive, and the California Natural Diversity Data Base list three sensitive wildlife species, five sensitive plant species, and two sensitive plant communities for the Canoga Park USGS Topographic Quad Sheet, where the project is located. The SMMC, says, "Thirty-two special status species of wildlife have been recorded, or have the potential to occur, in the vicinity of the project site..." In addition, the SMMC considers the Girard Reservoir to be wet lands. This wet land is adjacent to the property.

Response:

The DEIR adequately acknowledged the number of sensitive species known from the project vicinity (Table V.D-3) and analyzed each species for its potential to occur on the project site given the site's amount, quality and type of habitat(s). In addition, Fish and Game did not raise any concerns regarding the adequacy of the sensitive species analysis impacts in its DEIR comment letter. Based on a recent assessment of the DWP property (Girard Reservoir) by CAJA biologists in June 2007, it was determined that the reservoir contains wetland habitat; however, this wetland would not be impacted by the proposed project as the site plan would provide a minimum buffer of approximately 100 feet from the reservoir's edge. Based on field observations and conversations with DWP staff, the only existing source of water for the Girard Reservoir and the wetland habitat within it is from direct precipitation or surface runoff from the surrounding earthen berms; there is no hydrologic connection between the project site and the reservoir, as it is physically separated by the 10- to 15-foot tall earthen berm surrounding the reservoir. The only other activities resulting from the project that could affect the wetland in the Girard Reservoir is the fuel modification activities; however, these activities would only result in the trimming of trees in this area, which would not result in a significant impact to the wetland. Therefore, the proposed project will not result in significant impacts to the wetland habitat within the Girard Reservoir. Also, please refer to Response to Comment No. 5-13.

This response is also applicable to Alternative 2.

Comment No. 18-12:

The DEIR does admit to evidence on the site of mammalian, reptilian, and avian Federal and/or State Species of Concern. Per Fish and Game's regulations, they have a plan to work around the approximately

Given the evidence, it seems that the DEIR should have looked a little harder for the presence of water on the site. A 1967 map indicates the blue-line stream's presence. We need an updated and accurate map before we can determine the truth of the matter. The water on this property may be "intermittent" or "ephemeral", but even that has special status according to Fish and Game.

Response:

The Fish and Game NOP letter stated that wetlands and watercourses must be retained; however, this can only be accomplished if such features are actually present on-site. An assessment of the project site by several biologists (TeraCor and CAJA) with years of wetland and water delineation experience concluded that jurisdictional features were not present and, therefore, a formal delineation of such features was unnecessary. In addition, Fish and Game did not raise any concerns regarding this issue in their Draft EIR comment letter; their comment to the NOP regarding watercourses was language that is typical to most Fish and Game generic response letters which are generated to address a range of potential issues that may occur on many sites but are not necessarily specific to a particular site.

Although willow scrub is present, it is not considered to be riparian. The Draft EIR defines riparian as, "on, or pertaining to, the banks of a stream;" however, a "stream" is no longer present on-site as described in the Draft EIR. Therefore, riparian vegetation is not present on-site (for further discussion of the blue-line stream, see Response to Comment No. 5-8).

Comment No. 13-13:

In letters in response to NOP: Michael Condro at 4724 Conejo wrote a letter in which he mentions the flow of water through his property when it rains. The DEIR believes current storm drains are sufficient. Perhaps a survey of the residents owning properties immediately below the projected development site should be done.

Response:

Technical Appendix E-1 contains the preliminary hydrology study for the proposed project. Technical Appendix E-2 contains a more detailed hydrology study for Alternative 2. Based upon the information provided by these reports which have been submitted to the City of Los Angeles for review and approval, the Initial Study (Draft EIR, Appendix A) determined that the proposed project would not have a significant effect with respect to hydrology. In contrast, the comment presents no evidence, data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the implied contention that the proposed project would cause downstream flooding. Pursuant to CEQA Guidelines Section 15064, an effect is not considered significant in the absence of substantial evidence. Therefore, no further response is necessary.

Comment No. 13-14:

The Coast Live Oaks that would be removed are all over eight inches in diameter and therefore protected by the City of Los Angeles Tree Ordinance. (IV-8) "...there is oak woodland on the project site, which is a

edge of the site remains vegetated with mixed native grassland (NG) and coastal sage scrub (CSS) elements (Mixed NG/CSS). This relictual CSS patch is very small (less than 0.25 acre).

A USGS-designated blue line stream is depicted on-site on the *Canoga Park, CA USGS Quadrangle*. The former stream is modified on-site and off-site and no longer is connected to the project site as it is intercepted under Mulholland Drive and conveyed into a subdrain. The only water which enters the site now is street runoff from Mulholland Drive which enters the site via several incipient gullies on a slope leading down from the road. A curb on Mulholland Drive would likely eliminate runoff. Presently, leaf litter and debris from this incipient runoff is lodged against chainlink fencing at the bottom of the slope. On-site, a former pond is discernable but no longer retains water. Emergent willow scrub vegetation developed in two small areas on-site. Downstream of the former pond, the watercourse was only partially visible with no evidence of recent flow Though a delineation was not performed, these features did not appear to be jurisdictional under provisions of the Clean Water Act, the Harbors and Rivers Navigation Act, or the California Fish and Game Code.

Topography on-site ranges from gently-sloping in lower areas to hilly in the western and eastern central portions. Elevation on-site ranges from approximately 1,000 feet above mean sea level (msl) at the northern edge to approximately 1,048 feet above msl at the southwestern edge of the subject site. The physical condition of the subject site and surrounding properties is shown in *Exhibit 3 - Aerial Photograph - 2004*, attached.

The following characteristics of the soil present on-site is stated in the *Geologic and Soils Engineering Exploration* produced by The J. Byer Group, Inc., dated 22 March 2005. Earth materials present on-site generally consists of fill, alluvium, and bedrock. Fill, associated with previous grading, blankets the majority of the site. The fill generally consists of silty sand, and does not appear to be compacted. Natural alluvium underlies the majority of the western and eastern portions of the subject site. The alluvium consists of silty sand, clayey sand, and sand which ranges from moist to saturated. In addition, bedrock is present on the ridge in the southern portion of the property. This bedrock is comprised of siltstone and sandstone mapped as part of the Modelo Formation by T.W. Dibblee, 1992 (*Geologic Map of the Topanga and Canoga Park (South ½) Quadrangles*).

Project Description

The project includes the subdivision of the subject site into two (2) lots and the development of 37 residential condominium homes. The 37 residential units will be comprised of three (3) plan types, (Plan Types: A, B, and C). Project implementation will additionally involve the construction of vehicle access ways and driveways for the proposed units, and associated infrastructure.

native plant species, 2) alleopathic suppression of understory plants, and 3) lowered potential for utilization by wildlife for cover and foraging.

Willow Scrub (CNDDB Code No. 63.100.00)

Two small patches of riparian scrub vegetation on-site; both patches are within the historic alignment of the blueline stream on the site. One patch is located at the south edge of the site, along Mulholland Drive at the location of a presumed drainage outlet into the property. The second patch is found in the vicinity of the pond in the southwest corner of the property. These willow scrub areas are very small in extent, and would not support the range of riparian species normally associated with this vegetation type. We identified the willows with leaves remaining as arroyo willow (*Salix lasiolepis*).

4.0 WILDLIFE, BIOGEOGRAPHY AND WILDLIFE CORRIDORS

Wildlife in the Vicinity of the Project Area

Wildlife values in areas surrounding the project site are moderately low. Urbanization surrounds the property due to many decades of development in the Woodland Hills area. There are few native communities remaining within this area, and those which remain have little to no value to wildlife due to lack of connectivity. Urban areas are considered to be of little value to wildlife, other than to those that are adapted to urbanized areas (e. g. European starling, house sparrow, and rock pigeon).

Wildlife within the Project Area

Though the project area is disturbed and is considered to have a moderately low value to wildlife, a number of common and urban-tolerant species probably utilize the property for foraging. Appendix B - Faunal Compendium records those species observed and those which have the potential to occur. Some species (those adapted to urbanized areas) with high mobility, such as coyote (*Canis latrans*), red-tailed hawk (*Buteo jamaicensis*), great horned owl (*Bubo virginiensis*), and urban-tolerant songbirds utilize the project area on a transitory and sometimes regular basis, depending on environmental factors present within their primary habitat and their degree of fear of humans and human activities. TERACOR field personnel detected several urban-tolerant bird species during field surveys which included but was not limited to black phoebe (*Sayornis nigricans*), house sparrow (*Passer domesitcus*), mourning dove (*Zenaida macroura*), and house finch (*Carpodacus mexicanus*).

nesting as they would avoid the area of due to noise or vibration disturbance. Mitigation Measure D-4 allows for vegetation and ground disturbance to be initiated prior to the bird nesting season, thereby avoiding direct impacts to nesting birds; continuation of construction activities into the nesting season would preclude bird nesting in the adjacent area as they would avoid the area of due to noise or vibration disturbance. Also, these measures only apply to vegetation removal and grading or ground disturbing activities, which can be accomplished in a smaller work period than the 24-month schedule; the remaining project construction activities would continue through the anticipated schedule.

Fish and Game does support the relocation of certain sensitive species for mitigation purposes, such as the California burrowing owl. In addition, mitigation measures D-2 and D-3 meet requirements under CEQA as they will reduce and/or minimize the potentially adverse impacts to these sensitive species. In addition, Fish and Game did not raise any concerns regarding the adequacy of the sensitive reptile mitigation measure, including relocation, in their DEIR comment letter. Mitigation Measure D-4 (Draft EIR page V.D-36) regarding protection of nesting birds has been revised to reflect Fish and Game's comment, including requiring a 500-foot buffer for raptor nests; however, since this buffer is only required if active nests are found during construction within the nesting season (see Section II, Corrections and Additions). This is a feasible measure consistent with anticipated construction activities.

This response would be equally applicable for Alternative 2.

Comment No. 13-5:

In the DEIR noise level study, they state that construction related noise levels during excavation and grading, even after mitigation, will still be significant for surrounding residents. Then it obviously will be significant for wildlife living on the property, who are closest of all to the disruption. And according to the Migratory Bird Treaty Act of 1916, (V. D-5) "...it is illegal under MBTA to directly kill, or destroy a nest of, nearly any bird species, not just endangered species." On (V. D-6), you'll find it's also a violation of California Fish and Game Code 3503, 3503.5, and 3512.

Response:

Mitigation Measure D-4 mitigates for potential noise or vibration impacts to nesting birds during construction by prohibiting construction during the nesting season, or requiring pre-construction nest surveys and providing buffers around active nests until the young have fledged. Therefore, the project will not result in a violation of the Migratory Bird Treaty Act or the Fish and Game Code.

This response would be equally applicable for Alternative 2.

Comment No. 13-6:

There are some puzzling if not deceptive assertions. The DEIR says that habitat loss due to construction will be insignificant for the San Diego Desert Woodrat, and that the removal of a chain link fence currently hampering their movements will be removed and in effect, expand their range. Are chain link fences known to hamper the movement of rats?

SEE ATTACHED

Despite the EIR's contention that Fish and Game does support relocation of certain sensitive species for mitigation purposes, I still believe that they don't promote it generally:

- On California Fish and Game's website, a staff report from 1995 details a relocation strategy developed in 1993 specifically for Burrowing Owl mitigation. (See attached report)

- Note that this strategy would entail the developer purchasing a minimum of 6.5 acres of foraging habitat per pair or unpaired resident bird (to be dedicated as permanently protected land) and an elaborate method of capture and resettlement.

- Fish and Game's much more recent NOP letter, dated September 5, 2005, maintains that relocation is generally unsuccessful as mitigation. (See attached letter) + HIGHLIGHTED AREA

- I couldn't find any strategies for relocation of species other than the old report on the Burrowing Owl on California Fish and Game's website. For the record, according to Teracor's General Biological Assessment in the DEIR Appendices, the Burrowing Owl was found to be "Not Present" at the project site, so I'm not sure why the EIR brought it up, anyway. (See attached page from General Biological Assessment)

State of California

Memorandum

: "Div. Chiefs - IFD, BDD, NED, & WMD
Reg. Mgrs. - Regions 1, 2, 3, 4, & 5

Date : October 17, 1995

From : Department of Fish and Game

Subject :
Staff Report on Burrowing Owl Mitigation

I am hereby transmitting the Staff Report on Burrowing Owl Mitigation for your use in reviewing projects (California Environmental Quality Act [CEQA] and others) which may affect burrowing owl habitat. The Staff Report has been developed during the last several months by the Environmental Services Division (ESD) in cooperation with the Wildlife Management Division (WMD) and regions 1, 2, and 4. It has been sent out for public review and redrafted as appropriate.

Either the mitigation measures in the staff report may be used or project specific measures may be developed. Alterative project specific measures proposed by the Department divisions/regions or by project sponsors will also be considered. However, such mitigation measures must be submitted to ESD for review. The review process will focus on the consistency of the proposed measure with Department, Fish and Game Commission, and legislative policy and with laws regarding raptor species. ESD will coordinate project specific mitigation measure review with WMD.

If you have any questions regarding the report, please contact Mr. Ron Rempel, Supervising Biologist, Environmental Services Division, telephone (916) 654-9980.

COPY Original signed by C.F Raysbrook

C. F. Raysbrook
Interim Director

Attachment

cc: Mr. Ron Rempel
Department of Fish and Game
Sacramento

STAFF REPORT ON BURROWING OWL MITIGATION

Introduction

The Legislature and the Fish and Game Commission have developed the policies, standards and regulatory mandates to protect native species of fish and wildlife. In order to determine how the Department of Fish and Game (Department) could judge the adequacy of mitigation measures designed to offset impacts to burrowing owls *(Speotyto cunicularia;* A.O.U. 1991) staff (WMD, ESD, and Regions) has prepared this report. To ensure compliance with legislative and commission policy, mitigation requirements which are consistent with this report should be incorporated into: (1) Department comments to Lead Agencies and project sponsors pursuant to the California Environmental Quality Act (CEQA); and (2) other authorizations the Department gives to project proponents for projects impacting burrowing owls.

This report is designed to provide the Department (including regional offices and divisions), CEQA Lead Agencies and project proponents the context in which the Environmental Services Division (ESD) will review proposed project specific mitigation measures. This report also includes preapproved mitigation measures which have been judged to be consistent with policies, standards and legal mandates of the Legislature,. the Fish and Game Commission and the Department's public trust responsibilities. Implementation of mitigation measures consistent with this report are intended to help achieve the conservation of burrowing owls and should compliment multi-species habitat conservation planning efforts currently underway. The *Burrowing Owl Survey Protocol and Mitigation Guidelines* developed by The California Burrowing Owl Consortium (CBOC 1993) were taken into consideration in the preparation of this staff report as were comments from other interested parties.

A range-wide conservation strategy for this species is needed. Any range-wide conservation strategy should establish criteria for avoiding the need to list the species pursuant to either the California or federal Endangered Species Acts through preservation of existing habitat, population expansion into former habitat, recruitment of young into the population, and other specific efforts.

California's burrowing owl population is clearly declining and, if declines continue, the species may qualify for listing. Because of the intense pressure for urban development within suitable burrowing owl nesting and foraging habitat (open, flat and gently rolling grasslands and grass/shrub lands) in California, conflicts between owls and development projects often occur. Owl survival can be adversely affected by disturbance and foraging habitat loss even when impacts to individual birds and nests/burrows are avoided. Adequate information about the presence of owls is often unavailable prior to project approval. Following project approval there is no legal mechanism through which to seek mitigation other than avoidance of occupied burrows or nests. The absence of standardized survey methods often impedes consistent impact assessment.

Burrowing Owl Habitat Description

Burrowing owl habitat can be found in annual and perennial grasslands, deserts, and arid scrublands characterized by low-growing vegetation (Zarn 1974). Suitable owl habitat may also include trees and shrubs if the canopy covers less than 30 percent of the ground surface. Burrows are the essential component of burrowing owl habitat. Both natural and artificial burrows provide protection, shelter, and nests for burrowing owls (Henny and Blus 1981). Burrowing owls typically use burrows made by fossorial mammals, such as ground squirrels or badgers, but also may use man-made structures such as cement culverts; cement, asphalt, or wood debris piles; or openings beneath cement or asphalt pavement.

Occupied Burrowing Owl Habitat

Burrowing owls may use a site for breeding, wintering, foraging, and/or migration stopovers. Occupancy of suitable burrowing owl habitat can be verified at a site by detecting a burrowing owl, its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance. Burrowing owls exhibit high site fidelity, reusing burrows year after year (Rich 1984, Feeney 1992). A site should be assumed occupied if at least one burrowing owl has been observed occupying a burrow there within the last three years (Rich 1984).

CEQA Project Review

The measures included in this report are intended to provide a decision-making process that should be implemented whenever-there is potential for-an action or project to adversely affect burrowing owls. For projects subject to the California Environmental Quality Act (CEQA), the process begins by conducting surveys to determine if burrowing owls are foraging or nesting on or adjacent to the project site. If surveys confirm that the site is occupied habitat, mitigation measures to minimize impacts to burrowing owls, their burrows and foraging habitat should be incorporated into the CEQA document as enforceable conditions. The measures in this document are intended to conserve the species by protecting and maintaining viable' populations of the species throughout their range in California. This may often result in protecting and managing habitat for the species at sites away from rapidly urbanizing/developing areas. Projects and situations vary and mitigation measures should be adapted to fit specific circumstances.

Projects not subject to CEQA review may have to be handled separately since the legal authority the Department has with respect to burrowing owls in this type of situation is often limited. The burrowing owl is protected from "take" (Section 3503.5 of the Fish and Game Code) but unoccupied habitat is likely to be lost for activities not subject to CEQA.

Legal Status

The burrowing owl is a migratory species protected by international treaty under the Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703-711). The MBTA makes it unlawful to take, possess, buy, sell, purchase, or barter any migratory bird listed in 50 C.F.R. Part 10, including feathers or other parts, nests, eggs, or products, except as allowed by implementing regulations (50 C.F.R. 21). Sections 3505, 3503.5, and 3800 of the California Department of Fish and Game Code prohibit the take, possession, or destruction of birds, their nests or eggs. To avoid violation of the take provisions of these laws generally requires that project-related disturbance at active nesting territories be reduced or eliminated during the nesting cycle (February 1 to August 31). Disturbance that causes nest abandonment and/or loss of reproductive effort (e.g., killing or abandonment of eggs or young) may be considered "take"' and is potentially punishable by fines and/or imprisonment.

The burrowing owl is a Species of Special Concern to California because of declines of suitable habitat and both localized and statewide population declines. Guidelines for the Implementation of the California Environmental Quality Act (CEQA) provide that a species be considered as endangered or "rare" regardless of appearance on a formal list for the purposes of the CEQA (Guidelines, Section 15380, subsections b and d). The CEQA requires a mandatory findings of significance if impacts to threatened or endangered species are likely to occur (Sections 21001 (c), 2103; Guidelines 15380, 15064, 15065). To be legally adequate, mitigation measures must be capable of "avoiding the impact altogether by not taking a certain action or parts of an action"; "minimizing impacts by limiting the degree or magnitude of the action and its implementation"; "rectifying the impact by repairing, rehabilitating or restoring the impacted environment"; "or reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action" (Guidelines, Section 15370). Avoidance or mitigation to reduce impacts to less than significant levels must be included in a project or the CEQA lead agency must make and justify findings of overriding considerations.

Impact Assessment

Habitat Assessment

The project site and a 150 meter (approximately 500 ft.) buffer (where possible and appropriate based on habitat) should be surveyed to assess the presence of burrowing owls and their habitat (Thomsen 1971, Martin 1973). If occupied habitat is detected on or adjacent to the site, measures to avoid, minimize, or mitigate the project's impacts to the species should be incorporated into the project, including burrow preconstruction surveys to ensure avoidance of direct take. It is also recommended that preconstruction surveys be conducted if the species was not detected but is likely to occur on the project site.

Burrowing Owl and Burrow Surveys

Burrowing owl and burrow surveys should be conducted during both the wintering and nesting seasons, unless the species is detected on the first survey. If possible, the winter survey should be conducted between December 1 and January 31 (when wintering owls are most likely to be present) and the nesting season survey should be conducted between April 15 and July 15 (the peak of the breeding season). Surveys conducted from two hours before sunset to one hour after, or from one hour before to two hours after sunrise, are also preferable.

Surveys should be conducted by walking suitable habitat on the entire project site and (where possible) in areas within 150 meters (approx. 500 ft.) of the project impact zone. The 150-meter buffer zone is surveyed to identify burrows and owls outside of the project area which may be impacted by factors -such as noise and vibration (heavy equipment, etc.) during project construction. Pedestrian survey transects should be spaced to allow 100 percent visual coverage of the ground surface. The distance between transect center lines should be no more than 30 meters (approx. 100 ft.) and should be reduced to account for differences in terrain, vegetation density, and ground surface visibility. To effectively survey large projects (100 acres or larger), two or more surveyors should be used to walk adjacent transects. To avoid impacts to owls from surveyors, owls and/or occupied burrows should be avoided by a minimum of 50 meters (approx. 160 ft.) wherever practical. Disturbance to occupied burrows should be avoided during all seasons.

Definition of Impacts

The following should be considered impacts to the species:

- Disturbance within 50 meters (approx. 160 ft.) Which may result in harassment of owls at occupied burrows;
- Destruction of natural and artificial burrows (culverts, concrete slabs and debris piles that provide shelter to burrowing owls); and
- Destruction and/or degradation of foraging habitat adjacent (within 100 m) of an occupied burrow(s).

Written Report

A report for the project should be prepared for the Department and copies should be submitted to the Regional contact and to the Wildlife Management Division Bird and Mammal Conservation Program. The report should include the following information:

- Date and time of visit(s) including name of the qualified biologist conducting surveys, weather and visibility conditions, and survey methodology;

- Description of the site including location, size, topography, vegetation communities, and animals observed during visit(s);

- Assessment of habitat suitability for burrowing owls;

- Map and photographs of the site;

- Results of transect surveys including a map showing the location of all burrow(s) (natural or artificial) and owl(s), including the numbers at each burrow if present and tracks, feathers, pellets, or other items (prey remains, animal scat);

- Behavior of owls during the surveys;

- Summary of both winter and nesting season surveys including any productivity information and a map showing territorial boundaries and home ranges; and

- Any historical information (Natural Diversity Database, Department regional files? Breeding Bird Survey data, American Birds records, Audubon Society, local bird club, other biologists, etc.) regarding the presence of burrowing owls on the site.

Mitigation

The objective of these measures is to avoid and minimize impacts to burrowing owls at a project site and preserve habitat that will support viable owls populations. If burrowing owls are detected using the project area, mitigation measures to minimize and offset the potential impacts should be included as enforceable measures during the CEQA process.

Mitigation actions should be carried out from September 1 to January 31 which is prior to the nesting season (Thomsen 1971, Zam 1974). Since the timing of nesting activity may vary with latitude and climatic conditions, this time frame should be adjusted accordingly. Preconstruction surveys of suitable habitat at the project site(s) and buffer zone(s) should be conducted within the 30 days prior to construction to ensure no additional, burrowing owls have established territories since the initial surveys. If ground disturbing activities are delayed or suspended for more than 30 days after the preconstruction survey, the site should be resurveyed.

Although the mitigation measures may be included as enforceable project conditions in the CEQA process, it may also be desirable to formalize them in a Memorandum of Understanding (MOU) between the Department and the project sponsor. An MOU is needed when lands (fee title or conservation easement) are being transferred to the Department.

Specific Mitigation Measures

1. Occupied burrows should not be disturbed during the nesting season (February 1 through August 3 1) unless a qualified biologist approved by the Department verifies through non-invasive methods that either: (1) the birds have not begun egg-laying and incubation; or (2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

2. To offset the loss of foraging and burrow habitat on the project site, a minimum of 6.5 acres of foraging habitat (calculated on a 100 m {approx. 300 ft.} foraging radius around the burrow) per pair or unpaired resident bird, should be acquired and permanently protected. The protected lands should be adjacent to occupied burrowing owl habitat and at a location acceptable to the Department. *Protection of additional habitat acreage per pair or unpaired resident bird may be applicable in some instances.* The CBOC has also developed mitigation guidelines (CBOC 1993) that can be incorporated by CEQA lead agencies and which are consistent with this staff report.

3. When destruction of occupied burrows is unavoidable, existing unsuitable burrows should be enhanced (enlarged or cleared of debris) or new burrows created (by installing artificial burrows) at a ratio of 2:1 on the protected lands site. One example of an artificial burrow design is provided in Attachment A.

4. If owls must be moved away from the disturbance area, passive relocation techniques (as described below) should be used rather than trapping. At least one or more weeks will be necessary to accomplish this and allow the owls to acclimate to alternate burrows.

5. The project sponsor should provide funding for long-term management and monitoring of the protected lands. The monitoring plan should include success criteria, remedial measures, and an annual report to the Department.

Impact Avoidance

If avoidance is the preferred method of dealing with potential project impacts, then no disturbance should occur within 50 meters (approx. 160 ft.) of occupied burrows during the nonbreeding season of September 1 through January 31 or within 75 meters (approx. 250 ft.) during the breeding season of February 1 through August 31. Avoidance also requires that a minimum of 6.5 acres of foraging habitat be *permanently* preserved contiguous with occupied burrow sites for each pair of breeding burrowing owls (with or without dependent young) or single unpaired resident bird. The configuration of the protected habitat should be approved by the Department.

Passive Relocation - With One-Way Doors

Owls should be excluded from burrows in the immediate impact zone and within a 50 meter (approx. 160 ft.) buffer zone by installing one-way doors in burrow entrances. One-way doors (e.g., modified dryer vents) should be left in place 48 hours to insure owls have left the burrow before excavation. Two natural or artificial burrows should be provided for each burrow in the project area that will be rendered biologically unsuitable. The project area should be *monitored daily for one* week to confirm owl use of burrows before excavating burrows in the immediate impact zone. Whenever possible, burrows should be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible plastic pipe should be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow.

Passive Relocation - Without One-Way Doors

Two natural or artificial burrows should be provided for each burrow in the project area that will be rendered biologically unsuitable. The project area should be *monitored daily until the owls have relocated to the new burrows.* The formerly occupied burrows may then. be excavated. Whenever possible, burrows should be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible plastic pipe should be inserted into burrows during excavation to maintain an escape route for any animals inside the burrow.

Projects Not Subject to CEQA

The Department is often contacted regarding the presence of burrowing owls on construction sites, parking lots and other areas for which there is no CEQA action or for which the CEQA process has been completed. In these situations, the Department should seek to reach agreement with the project sponsor to implement the specific mitigation measures described above. If they are unwilling to do so, passive relocation without the aid of one-way doors is their only option based upon Fish and Game Code 3503.5.

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Reproductive Success of Burrowing Owls Using Artificial Nest Burrows in Southeastern Idaho

by Bruce Olenick

Artificial nest burrows were implanted in southeastern Idaho f'or burrowing owls in the spring of 1986. These artificial burrows consisted of a 12" x 12" x 8" wood nesting chamber with rennovable top and a 6 foot corrugated and perforated plastic drainage pipe 6 inches in diameter (Fig. 1). Earlier investigators claimed that artificial burrows must provide a natural dirt floor to allow burrowing owls to modify the nesting tunnel and chamber. Contrary to this, the artificial burrow introduced here does not allow owls to modify the entrance or tunnel. The inability to change the physical dimensions of the burrow tunnel does not seem to reflect the owls' breeding success or deter them from using this burrow design.

In 1936, 22 artificial burrows were inhabited. Thirteen nesting attempts yielded an average clutch size of 8.3 eggs per breeding pair. Eight nests successfully hatched at least 1 nestling. In these nests, *67 of 75* eggs hatched (59.3%) and an estimated 61 nestlings (91.0%) fledged. An analysis of the egg laying and incubation periods showed that incubation commenced well after egg laying bega. Average clutch size at the start of incubation was 5.6 eggs. Most eggs tended to hatch synchronously in all successful nests.

Although the initial cost of constructing this burrow design may be slightly higher than a burrow consisting entirely of wood, the plastic pipe burrow offers the following advantages: (1) it lasts several field seasons without rotting or collapsing; (2) it may prevent or retard predation; (3) construction time is minimal; (4) it is easy to transport, especially over long distances; and (5) the flexible tunnel simplifies installation. The use of this artificial nest burrow design was highly successful and may prove to be a great resource technique for future management of this species.

For additional information on constructing this artificial nest burrow, contact Bruce Olenick, Department of Biology, Idaho State University, Pocatello, ID 83209.

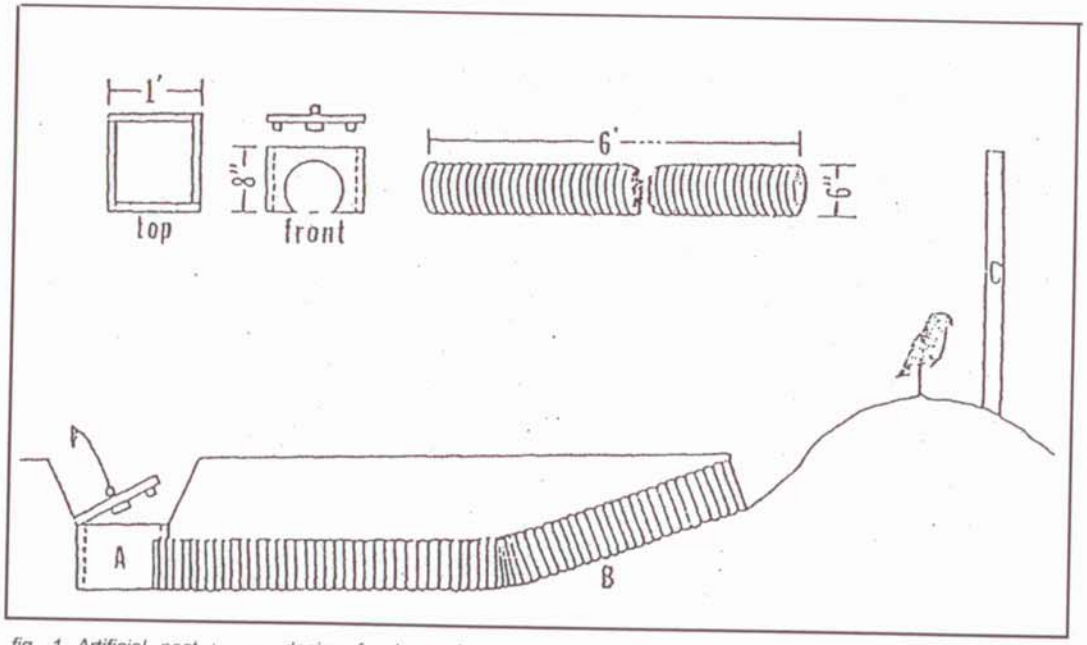

fig. 1 Artificial nest burrow design for burrowing owls Entire unit (including nest chamber) is buried 12" -- 18" below ground for maintaining thermal stability of the nest chamber. A= nest chamber, B = plastic pipe. C = perch.

ATTACHMENT A

State of California - The Resources Agency ARNOLD SCHWARZENEGGER, *Governor*

DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov
South Coast Region
4949 Viewridge Avenue
San Diego, CA 92123
(858) 467-4201

December 5, 2005

Mr. Jonathan Riker
City of Los Angeles Department of City Planning
Environmental Review Section
200 Noth Spring Steet, Room 750
Los Angles, CA 90012

Notice of Preparation of a Draft Environmental Impact Report for Vesting Tentative Tract No. 61553, EAF No, ENV-2005-2301-EIR Los Angeles County

Dear Ms. Riker:

The Department of Fish and Game (Department) has reviewed the above-referenced Notice of Preparation (NOP), relative to impacts to biological resources. The proposed project consists of the development of 37 detached single-family homes on a 6.19–acre parcel located at 22255 Mulholland Drive, Woodland Hills, City of Los Angeles.

To enable Department staff to adequately review and comment on the proposed project we recommend the following information, where applicable, be included in the Draft Environmental Impact Report:

1. A complete, recent assessment of flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, and locally unique species and sensitive habitats (Attachment 1).

   a. A thorough recent assessment of rare plants and rare natural communities, following the Department's Guidelines for Assessing Impacts to Rare Plants and Rare Natural Communities.

   b. A complete, recent assessment of sensitive fish, wildlife, reptile, and amphibian species. Seasonal variations in use of the project area should also be addressed. Recent, focused, species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with the Department and U.S. Fish and Wildlife Service.

   c. Rare, threatened, and endangered species to be addressed should include all those which meet the California Environmental Quality Act (CEQA) definition (see CEQA Guidelines, Section 15380).

d. The Department's Wildlife Habitat Data Analysis Branch in Sacramento should be contacted at (916) 322-2493 to obtain current information on any previously reported sensitive species and habitats, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code. Also, any Significant Ecological Areas (SEAs) or Environmentally Sensitive Habitats (ESHs) or any areas that are considered sensitive by the local jurisdiction that are located in or adjacent to the project area must be addressed.

2. A thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. This discussion should focus on maximizing avoidance, and minimizing impacts.

a. CEQA Guidelines, Section 15125(a), direct that knowledge of the regional setting is critical to an assessment of environmental impacts and that special emphasis should be placed on resources that are rare or unique to the region.

b. Project impacts should also be analyzed relative to their effects on off-site habitats and populations. Specifically, this should include nearby public lands, open space, adjacent natural habitats, and riparian ecosystems. Impacts to and maintenance of wildlife corridor/movement areas, including access to undisturbed habitat in adjacent areas, should be fully evaluated and provided. The analysis should also include a discussion of the potential for impacts resulting from such effects as increased vehicle traffic and outdoor artificial lighting.

c. A cumulative effects analysis should be developed as described under CEQA Guidelines, Section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.

d. Impacts to migratory wildlife affected by the project should be fully evaluated including proposals to removal/disturb native and ornamental landscaping and other nesting habitat for native birds. Impact evaluation may also include such elements as migratory butterfly roost sites and neo-tropical bird and waterfowl stop-over and staging sites. All migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of birds and their active nests, including raptors and other migratory nongame birds as listed under the MBTA.

e. Impacts to all habitats from City or County required Fuel Modification Zones (FMZ). Areas slated as mitigation for loss of habitat shall not occur within the FMZ.

f. Proposed project activities (including disturbances to vegetation) should take place outside of the breeding bird season (February 1- September 1) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). If project activities cannot avoid the breeding bird season, nest surveys should be conducted and active nests should be avoided and provided with a minimum buffer as determined by a biological monitor (the Department recommends a minimum 500-foot buffer for all active raptor nests).

3. A range of alternatives should be analyzed to ensure that alternatives to the proposed project are fully considered and evaluated. A range of alternatives which avoid or otherwise minimize impacts to sensitive biological resources including wetlands/riparian habitats, alluvial scrub, coastal sage scrub, Joshua tree woodlands, etc. should be included. Specific alternative locations should also be evaluated in areas with lower resource sensitivity where appropriate.

   a. Mitigation measures for project impacts to sensitive plants, animals, and habitats should emphasize evaluation and selection of alternatives which avoid or otherwise minimize project impacts. Compensation for unavoidable impacts through acquisition and protection of high quality habitat elsewhere should be addressed with offsite mitigation locations clearly identified.

   b. The Department considers Rare Natural Communities as threatened habitats having both regional and local significance. Thus, these communities should be fully avoided and otherwise protected from project-related impacts (Attachment 2).

   c. The Department generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species. Department studies have shown that these efforts are experimental in nature and largely unsuccessful.

4. A California Endangered Species Act (CESA) Permit must be obtained, if the project has the potential to result in "take" of species of plants or animals listed under CESA, either during construction or over the life of the project. CESA Permits are issued to conserve, protect, enhance, and restore State-listed threatened or endangered species and their habitats. Early consultation is encouraged, as significant modification to the proposed project and mitigation measures may be required in order to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, require that the Department issue a separate CEQA document for the issuance of a CESA permit unless the project CEQA document addresses all project impacts to listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of a CESA permit. For these reasons, the following information is requested:

   a. Biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA Permit.

   b. A Department-approved Mitigation Agreement and Mitigation Plan are required for plants listed as rare under the Native Plant Protection Act.

5. The Department opposes the elimination of watercourses (including concrete channels) and/or the canalization of natural and manmade drainages or conversion to subsurface drains. All wetlands and watercourses, whether intermittent, ephemeral, or perennial, must be retained and provided with substantial setbacks which preserve the riparian and aquatic habitat values and maintain their value to on-site and off-site wildlife populations. The Department recommends a minimum natural buffer of 100 feet from the outside edge of the riparian zone on each side of a drainage.

   a. The Department requires a Streambed Alteration Agreement (SAA), pursuant to Section 1600 et seq. of the Fish and Game Code, with the applicant prior to any direct or indirect impact to a lake or stream bed, bank or channel or associated riparian

resources. The Department's issuance of a SAA may be a project that is subject to CEQA. To facilitate our issuance of the Agreement when CEQA applies, the Department as a responsible agency under CEQA may consider the local jurisdiction's (lead agency) document for the project. To minimize additional requirements by the Department under CEQA the document should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the Agreement. Early consultation is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources.

Thank you for this opportunity to provide comment. Please contact Mr. Scott Harris, Wildlife Biologist, at (626) 797-3170 if you should have any questions and for further coordination on the proposed project.

Sincerely,

Scott Harris for

Morgan Wehtje
Environmental Scientist IV

cc: Ms. Morgan Wehtje, Camarillo
Mr. Scott Harris, Pasadena
Mr. Ronnie Glick, Thousand Oaks
HCP-Chron
Department of Fish and Game

State Clearinghouse, Sacramento

SPH:sph

LA City Env-2005-2301-EIR

Species	Sensitive Species Status	Probability of Occurrence within Proposed Project
Golden eagle (*Aquila chrysaetos*)	CSC The species is also protected under the Bald Eagle Protection Act.	**Low.** These large birds of prey likely do not utilize the subject site due to the frequency of human disturbance.
Southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*)	CSC	**Moderately Low.** This subspecies is typically found in coastal sage scrub and chaparral habitats. It has a fairly wide distribution in southern California. Although marginal suitable habitat is present, this species is likely not a resident on-site, though it may utilize the site as a migratory stopover.
Burrowing Owl (*Athene cunicularia*)	CSC	**Not Present.** This species of owl is unique in that it utilizes the burrows of large, fossorial mammals (i.e. California ground squirrel) for both wintering and nesting. It is usually found in open grasslands or scrublands with low-growing vegetation. According to the CNDDB, it was last observed near the property in 1921. No burrowing owl or burrowing owl sign (i. e., feathers, pellets, and wash) were detected on-site.
western yellow-billed cuckoo (*Coccyzus americanus occidentalis*)	SE	**Not Present.** Habitat within the subject site is not suitable for western yellow-billed cuckoo, which inhabits dense riverine woodlands.
yellow warbler (*Dendroica petechia brewsteri*)	CSC (nesting)	**Not Present.** This species breeds locally in the dense understory of riparian thickets. This species is not expected to nest on-site due to a lack of suitable support habitat.
willow flycatcher (*Empidonax trailli* all subspecies)	FE, SE	**Not Present.** This species breeds in the dense understory of riparian thickets. This species is not expected to occur on-site due to a lack of suitable support habitat.
yellow breasted chat (*Icteria virens*)	CSC	**Not Present.** This species breeds in the dense understory of riparian thickets. This species is not expected to occur on-site due to a lack of suitable support habitat.
coastal California gnatcatcher (*Polioptila californica californica*)	FT, CSC	**Low.** The California gnatcatcher is a habitat specialist in that it requires coastal sage scrub. There is a recorded sighting of an individual in 1991 at Verdugo Mountain Park, across the San Fernando Valley. Though records exist for California gnatcatcher (CAGN) in the Cahuenga Pass area, no CAGN have been observed in this area for decades. Although a small pocket of degraded coastal sage scrub persists on the property, CAGN is not expected to occur.

3

The FEIR's response to concern about wildlife is insufficient. They say they will attempt to work around the various breeding seasons of several different sensitive bird, reptile and mammal species found on site. It sounds difficult to accomplish, given their objectives. They hope that the disturbance to wildlife caused by the construction will prevent the animals from breeding. That doesn't sound like mitigation at all, since it's actually depleting the population. They will try to relocate animals, a policy generally avoided by Fish and Game as unsuccessful. (My disagreement with the FEIR's interpretation of this policy is addressed elsewhere.) They denigrate the area as a nursery site, and apparently it doesn't fit the official definition since it doesn't produce a disproportionate amount of wildlife in comparison to other sites; nonetheless, quite a few different species and sometimes their nests were found on site. References are made in the FEIR to relocation of nests, so definitely, birds, reptiles and mammals are breeding there. It's a small and thriving, although perhaps unofficial, nursery area.

Attached are pages from the FEIR and DEIR, detailing different species found on site and the suggested mitigation tactics. None of this mitigation will reduce the impact to wildlife to "less than significant." A lot of them are going to die.

EIR Section V.D. There are no potentially significant historical elements on the project site (see Initial Study, Appendix A in the Draft EIR). See Draft EIR Table V.F-2 for a discussion of the project's consistency with the Mulholland Scenic Parkway Specific Plan.

Comment No. 13-3:

The DEIR downplays the occurrence of important animal and plant species on the project site, but both CEQA and the Santa Monica Mountains Conservancy agree that many sensitive species may be there, whether they were spotted recently or not. According to CEQA, (IV-6): "The project site is in close proximity to large expanses of relatively undisturbed open space located to the south of Mulholland Drive, and the California Natural Diversity Data Base lists three sensitive plant communities for the Canoga Park USGS Topographic Quad Sheet, where the project is located." The Santa Monica Mountains Conservancy, (V.D-25) says, "Thirty-two special status species of wildlife have been recorded, or have the potential to occur, in the vicinity of the project site..."

Response:

The Draft EIR adequately analyzed sensitive species known from the project vicinity (Table V.D-3) and analyzed each species for its potential to occur on the project site given the site's amount, quality and type of habitat(s). In addition, Fish and Game did not raise any concerns regarding the adequacy of the sensitive species analysis impacts in its Draft EIR comment letter.

The source of the comment's quote is not evident, however it is clearly not from CEQA, which is an acronym for California Environmental Quality Act.

This response is also applicable to Alternative 2.

Comment No. 13-4:

The DEIR does admit to evidence on the site of mammalian, reptilian, and avian "Federal and/or State Species of Concern". Per Fish and Game's regulations, they have a plan to work around the approximately 6 month breeding and nesting season of the San Diego Desert Woodrat and certain birds, avoiding noise and vibration near their nests, trapping and relocating when necessary. A worthy goal to which we're sure some effort (however incomplete) would be made, but I find it hard to believe that they'll keep it up for two years, as they later on specify a 24 month planned construction schedule. In addition, Fish and Game does not support relocation of species in a situation like this as a solution for mitigation, as it's generally an unsuccessful tactic. Fish and Game also requests a 500 foot buffer between any raptor nests and ongoing construction. There are red-tailed hawks in residence, and I don't see how they can meet this condition, given the plan layout.

Response:

The mitigation measures would not require a complete halt in the construction process. Mitigation Measure D-2 allows for initiation of construction activities prior to the woodrat breeding season which begins in October; continuation of these activities into the breeding season would preclude woodrat

nesting as they would avoid the area of due to noise or vibration disturbance. Mitigation Measure D-4 allows for vegetation and ground disturbance to be initiated prior to the bird nesting season, thereby avoiding direct impacts to nesting birds; continuation of construction activities into the nesting season would preclude bird nesting in the adjacent area as they would avoid the area of due to noise or vibration disturbance. Also, these measures only apply to vegetation removal and grading or ground disturbing activities, which can be accomplished in a smaller work period than the 24-month schedule; the remaining project construction activities would continue through the anticipated schedule.

Fish and Game does support the relocation of certain sensitive species for mitigation purposes, such as the California burrowing owl. In addition, mitigation measures D-2 and D-3 meet requirements under CEQA as they will reduce and/or minimize the potentially adverse impacts to these sensitive species. In addition, Fish and Game did not raise any concerns regarding the adequacy of the sensitive reptile mitigation measure, including relocation, in their DEIR comment letter. Mitigation Measure D-4 (Draft EIR page V.D-36) regarding protection of nesting birds has been revised to reflect Fish and Game's comment, including requiring a 500-foot buffer for raptor nests; however, since this buffer is only required if active nests are found during construction within the nesting season (see Section II, Corrections and Additions). This is a feasible measure consistent with anticipated construction activities.

This response would be equally applicable for Alternative 2.

Comment No. 13-5:

In the DEIR noise level study, they state that construction related noise levels during excavation and grading, even after mitigation, will still be significant for surrounding residents. Then it obviously will be significant for wildlife living on the property, who are closest of all to the disruption. And according to the Migratory Bird Treaty Act of 1916, (V. D-5) "...it is illegal under MBTA to directly kill, or destroy a nest of, nearly any bird species, not just endangered species." On (V. D-6), you'll find it's also a violation of California Fish and Game Code 3503, 3503.5, and 3512.

Response:

Mitigation Measure D-4 mitigates for potential noise or vibration impacts to nesting birds during construction by prohibiting construction during the nesting season, or requiring pre-construction nest surveys and providing buffers around active nests until the young have fledged. Therefore, the project will not result in a violation of the Migratory Bird Treaty Act or the Fish and Game Code.

This response would be equally applicable for Alternative 2.

Comment No. 13-6:

There are some puzzling if not deceptive assertions. The DEIR says that habitat loss due to construction will be insignificant for the San Diego Desert Woodrat, and that the removal of a chain link fence currently hampering their movements will be removed and in effect, expand their range. Are chain link fences known to hamper the movement of rats?

Response:

See Response to Comment No. 5-17.

Comment No. 13-7:

In contrast to opinions expressed by CEQA and the Santa Monica Mountains Conservancy, the DEIR believes that "Because the site is isolated from any larger blocks of similar habitat, the limited extent of native vegetation communities on-site, and the corresponding low potential for movement through the disjunct parcels of open space or parkland in the vicinity, the site is not considered to be an important wildlife corridor." (C.D-14) Nevertheless, as their discovery of nests on the property proves, wildlife does use the area as a nursery, and animals are often viewed by residents crossing back and forth across Mulholland, especially when traffic is lighter at night.

Response:

The significance thresholds in the Draft EIR, from the CEQA guidelines checklist, consider interference with wildlife movement or corridors as potentially significant. The proposed project will not interfere with wildlife movement, as wildlife will continue to move through the project site following development as they currently do throughout adjacent residential developments. As discussed in the TeraCor report and the Draft EIR, a corridor is defined as habitat which connects at least two significant habitat areas or large core areas; the project site does not serve this function and therefore is not considered to be a corridor. We do not disagree that wildlife species may use the project site, as well as the surrounding areas, including the bird species listed in the comment; however, Mitigation Measure D-4 will mitigate for potentially significant impacts to these species. Although the CEQA guidelines checklist also considers impeding the use of a "native wildlife nursery site" to be potentially significant, the project site is not considered a "native wildlife nursery site". A nursery is defined in ecological terms as a habitat that is favored for birth of egg deposition, or contributes a disproportionate number of juveniles into the adult population, as compared to other habitats (National Center for Ecological Analysis and Synthesis; NOAA).

This response would be equally applicable for Alternative 2.

Comment No. 13-8:

The traffic report lists horrendous figures (from 2600 VPD on San Feliciano on the project frontage, to 16,300 VPD on Mulholland on the project frontage) for the amount of daily vehicle trips, and still says that as the project will generate approximately 108 new residents and 354 new VPD it won't be an issue. They also mention that traffic in this small vicinity is expected to increase 2% annually, even without the project being built. The conclusion they neglect to arrive at is that the area is already overloaded with traffic and getting worse. If the traffic is fine, why have residents seen the addition of three stop signs in the last ten years to San Feliciano (At Cerrillos, Ybarra, and Dumetz) and speed bump s to Dumetz and Martinez? Recently, a petition circulated in the neighborhood to have speed bumps added to Viscanio between Topanga and San Feliciano. There have been accidents on San Feliciano that include fatalities,

3. Construction personnel have the potential to be destructive to all forms of plant and animal life. Small mammals and reptiles are particularly subject to disturbance from harassment, capture, or destruction. This temporary direct effect can be minimized to a level of non-significance by providing written and verbal instructions to all personnel on-site and contractually obligating these personnel to respect the natural environment. Construction fencing (orange safety fencing) is recommended around the perimeter of the work site.

4. Removal of natural habitat areas and trees on-site, if performed during bird nesting season, could constitute a violation of the Migratory Bird Treaty Act should nesting birds be present.

Recommended Mitigation Measures

1. In order to offset the impacts caused by the removal of several coast live oak trees, it is recommended that these removals be replaced with 24" box coast live oaks with a 3:1 mitigation ratio.

2. Native trees and shrubs should be utilized on-site in the landscape plan. Commercially available ornamental trees may be utilized on-site as long as 1) the species is not prohibited for installation by the City of Los Angeles Public Works Department along right-of-ways, and 2) the species has not been identified by the California Invasive Plant Council as an invasive risk in southern California.

3. Habitat alteration or removal should be performed outside of the bird nesting season which extends approximately from March 1 through July 30. Should habitat need to be removed during bird nesting season, a detailed nesting survey must be performed by a qualified biologist to determine if active nests are present prior to removal of support resources.

Determination of Significance With Mitigation Measures

With the implementation of the mitigation measures above, or similar measures which may be required by the City of Los Angeles, the environmental effects anticipated to occur from the proposed project can be reduced and mitigated to a level considered not significant.

Species	Sensitive Species Status	Probability of Occurrence within Proposed Project
wandering (saltmarsh) **skipper** (*Panoquina errans*)	**FSC**	along the coastal strand of southern California. It favors dune and marsh habitats that are grown to saltgrass (*Distichlis spicata*), which serves as its larval host. No suitable habitat exists on the subject site.
Reptiles		
southwestern pond turtle (*Clemmys marmorata pallida*)	**CSC**	**Not Present**. The western pond turtle inhabits permanent or nearly permanent bodies of water in a number of habitat types below 1800 meters. It requires basking sites such as logs, rocks, vegetation mats, or open mud banks. According to the CNDDB, this species was last observed in 1917. However, information for this species is suppressed due to the high sensitive nature of this species. No suitable habitat is present on-site.
horned lizard (*Phrynosoma coronatum* ssp.)	**FSC, CSC**	**Moderate**. Favorable habitat for this lizard includes open, flat, sandy areas in which several colonies of harvester ants (*Pogonomermex* sp.) are established, as ants are the horned lizard=s preferred food item. Plant communities associated with habitation of the horned lizard include coastal sage scrub. Although the date of the sighting is not specified, this species was observed approximately 2.5 miles southwest of the subject site near Topanga Canyon. Marginally suitable habitat is present on-site.
coast patch-nosed snake (*Salvadora hexalepis virgultea*)	**FSC, CSC**	**Moderately High**. The coast patch-nosed snake is mostly active during early morning hours, basking until temperatures get too warm. This species is infrequently encountered, and is found in the lower slopes of dry scrub, chaparral, and oak woodland habitats, in rocky, sandy areas. It feeds upon lizards and small mammals. Suitable habitat is present on-site.
San Bernardino ringneck snake (*Diadophis punctatus modestus*)	**FSC**	**Moderately High**. The San Bernardino ringneck snake occurs in shaded oak forest canyons, where it is most often found beneath rocks and logs, but also occurs in scrub habitats. It feeds upon smaller amphibians and invertebrates. This species is primarily active above ground in Spring and early Summer, after which time it retreats to subterranean burrows and crevices. Suitable habitat is present within the subject site.
San Diego mountain kingsnake (*Lampropeltis zonata pulchra*)	**CSC**	**Moderate**. The San Diego mountain kingsnake inhabits mountainous regions across Southern California. It prefers moist woods, coniferous forests, oak woodlands, and chaparral. It not only inhabits mountainous areas, but canyons down to sea level in the Santa Monicas. They are quite secretive, residing in rock crevices or beneath rock and debris piles. Moderately suitable habitat is present on-site.
silvery legless lizard (*Aniella pulchra*)	**FSC, CSC**	**Moderate**. This burrowing species feeds upon small, soft-bodied arthropods, often in the lower layers of chaparral or oak woodland leaf duff, less often along stream courses in loose alluvium. Moderately suitable habitat is present within on-site.

nammonaii hammondii)		most often found in riparian systems in which surface water is present through the Summer. This species likely does not occur on-site due to a lack of suitable support habitat.
Amphibians		
arroyo toad (*Bufo californicus*)	**FE, CSC**	**Not Present**. The arroyo toad is a habitat specialist in that it requires slow-flowing water, and pools no more than four inches deep for egg deposition. Habitat on-site is not suitable for this species.
California red-legged frog (*Rana aurora draytonii*)	**FT, CSC**	**Not Present**. This species requires dense riparian habitat (willows, cattails, and sedge) with slow-flowing water. Habitat on-site is not suitable for this species.
western spadefoot toad (*Spea hammondi*)	**FSC, CSC**	**Moderately Low**. This species is generally found in washes, lowlands, stream courses, floodplains, vernal pools and other xeric areas. Preferred habitat association include chaparral, oak woodland, coastal sage scrub, riparian woodland, and grassland. The spadefoot toad breeds in seasonal ponds and vernal pools in both upland and lowland areas. This toad is active later in the season than other amphibians (e.g. February - June). Marginal breeding habitat is present on-site, but surrounding habitats are

Species	Sensitive Species Status	Probability of Occurrence within Proposed Project
wandering (saltmarsh) **skipper** (*Panoquina errans*)	**FSC**	along the coastal strand of southern California. It favors dune and marsh habitats that are grown to saltgrass (*Distichlis spicata*), which serves as its larval host. No suitable habitat exists on the subject site.
Reptiles		
southwestern pond turtle (*Clemmys marmorata pallida*)	**CSC**	**Not Present**. The western pond turtle inhabits permanent or nearly permanent bodies of water in a number of habitat types below 1800 meters. It requires basking sites such as logs, rocks, vegetation mats, or open mud banks. According to the CNDDB, this species was last observed in 1917. However, information for this species is suppressed due to the high sensitive nature of this species. No suitable habitat is present on-site.
horned lizard (*Phrynosoma coronatum* ssp.)	**FSC, CSC**	**Moderate**. Favorable habitat for this lizard includes open, flat, sandy areas in which several colonies of harvester ants (*Pogonomermex* sp.) are established, as ants are the horned lizard=s preferred food item. Plant communities associated with habitation of the horned lizard include coastal sage scrub. Although the date of the sighting is not specified, this species was observed approximately 2.5 miles southwest of the subject site near Topanga Canyon. Marginally suitable habitat is present on-site.
coast patch-nosed snake (*Salvadora hexalepis virgultea*)	**FSC, CSC**	**Moderately High**. The coast patch-nosed snake is mostly active during early morning hours, basking until temperatures get too warm. This species is infrequently encountered, and is found in the lower slopes of dry scrub, chaparral, and oak woodland habitats, in rocky, sandy areas. It feeds upon lizards and small mammals. Suitable habitat is present on-site.
San Bernardino ringneck snake (*Diadophis punctatus modestus*)	**FSC**	**Moderately High**. The San Bernardino ringneck snake occurs in shaded oak forest canyons, where it is most often found beneath rocks and logs, but also occurs in scrub habitats. It feeds upon smaller amphibians and invertebrates. This species is primarily active above ground in Spring and early Summer, after which time it retreats to subterranean burrows and crevices. Suitable habitat is present within the subject site.
San Diego mountain kingsnake (*Lampropeltis zonata pulchra*)	**CSC**	**Moderate**. The San Diego mountain kingsnake inhabits mountainous regions across Southern California. It prefers moist woods, coniferous forests, oak woodlands, and chaparral. It not only inhabits mountainous areas, but canyons down to sea level in the Santa Monicas. They are quite secretive, residing in rock crevices or beneath rock and debris piles. Moderately suitable habitat is present on-site.
silvery legless lizard (*Aniella pulchra*)	**FSC, CSC**	**Moderate**. This burrowing species feeds upon small, soft-bodied arthropods, often in the lower layers of chaparral or oak woodland leaf duff, less often along stream courses in loose alluvium. Moderately suitable habitat is present within on-site.

Species	Sensitive Species Status	Probability of Occurrence within Proposed Project
coastal whiptail (*Cnemidophorus tigris stejnegeri*)	**FSC**	**Confirmed Present**. The coastal western whiptail usually inhabits dryer, scrub environments, and is somewhat tolerant of disturbances. It is often active later in the year, from May to late September, and usually during hotter times of the day, when other lizards are inactive. This species was detected during field surveys.
Hammond two-striped garter snake (*Thamnophis hammondii hammondii*)	**FSC, CSC**	**Low.** This species habitat preferences are stream-side habitats that form pools where amphibian larvae concentrate, allowing the garter snake to gorge itself on this prey. Year-round surface water is not required for this species= presence, however, it is most often found in riparian systems in which surface water is present through the Summer. This species likely does not occur on-site due to a lack of suitable support habitat.
Amphibians		
arroyo toad (*Bufo californicus*)	**FE, CSC**	**Not Present**. The arroyo toad is a habitat specialist in that it requires slow-flowing water, and pools no more than four inches deep for egg deposition. Habitat on-site is not suitable for this species.
California red-legged frog (*Rana aurora draytonii*)	**FT, CSC**	**Not Present**. This species requires dense riparian habitat (willows, cattails, and sedge) with slow-flowing water. Habitat on-site is not suitable for this species.
western spadefoot toad (*Spea hammondi*)	**FSC, CSC**	**Moderately Low**. This species is generally found in washes, lowlands, stream courses, floodplains, vernal pools and other xeric areas. Preferred habitat association include chaparral, oak woodland, coastal sage scrub, riparian woodland, and grassland. The spadefoot toad breeds in seasonal ponds and vernal pools in both upland and lowland areas. This toad is active later in the season than other amphibians (e.g. February - June). Marginal breeding habitat is present on-site, but surrounding habitats are highly degraded due to urbanization.
coast range newt (*Taricha torosa torosa*)	**CSC**	**Not Present**. Populations of the coast range newt are scattered throughout the Santa Monica Mountains, and are confined to slow-moving streams and pools in which surface flows last year-round, as their larvae require one year to develop. Habitat on-site is not suitable for this species.
Birds		
Bell's sage sparrow (*Amphispiza belli belli*)	**FSC, CSC**	**Moderate**. This species is typically found in coastal sage scrub and chaparral habitats and it may occur adjacent to the proposed project work areas. Sage sparrows occur in the general vicinity of the subject site but were not, however, observed on-site.
Cooper's hawk (*Accipiter cooperii*)	**CSC**	**Moderately High**. This species is a widespread predator that specializes on other birds as prey species. The oak woodland on-site constitutes suitable habitat for the Coopers= hawk, therefore, the occurrence of this species on-site is likely.
Golden eagle (*Aquila chrysaetos*)	**CSC** The species is also protected under the Bald	**Low**. These large birds of prey likely do not utilize the subject site due to the frequency of human disturbance.

Species	Sensitive Species Status	Probability of Occurrence within Proposed Project
(*Antrozous pallidus*), **Pale big-eared bat** (*Plecotus townsendi pallescens*),and a number of species in the genus *Myotis*, including **small-footed bat, long-eared bat, fringed bat, long-legged bat** and the **Yuma bat, Western yellow bat** (*Lasiurus xanthinus*), and **big free-tailed bat** (*Nyctinomops macrotis*)	listing status of the **Pale big-eared bat** is **FSC, CSC**. The listing status of the **small-footed bat** is **FSC**. The listing status of the **long-eared bat** is **FSC**. The listing status of the **fringed bat** is **FSC**. The listing status of the **long-legged bat** is **FSC**. The listing status of the **Yuma bat** is **FSC. Western yellow bat** and **big free-tailed bat** have no formal governmental listing status.	dependent upon resources which would be altered with the implementation of the proposed project.
Ringtail (*Bassariscus astutus octavus*)	**SFP**	**Low**. The secretive, nocturnal ringtail is difficult to detect, but has been recorded historically from sites in the Santa Monica Mountains. Ringtails usually forage and move in riparian areas, therefore, this species likely would not occur on-site.
San Diego desert woodrat (*Neotoma lepida intermedia*)	**FSC, CSC**	**Moderate**. This species is rather widely distributed throughout southern California in sage scrub, chaparral and desert regions. It prefers rocky areas, nesting in cracks and crevices, while the sympatric dusky-footed woodrat (*N. fuscipes*) nests in shrubs and occasionally in trees. A woodrat nest was detected within a coast live oak, which *N. fuscipes* likely inhabits.
southern grasshopper mouse (*Onychomys torridus ramona*)	**CSC**	**Low**. According to the CNDDB, this species was last observed in the Los Angeles area in the Tujunga Valley in 1904. It is a predatory mouse feeding primarily on invertebrates, but will also feed upon lizards, salamanders, and other mice. Inhabits scrub in desert areas with friable soils for digging. Likelihood of occurrence within the proposed project site is low due to limited support habitat.
Los Angeles pocket mouse (*Perognathus longimembris brevinasus*)	**FSC, CSC**	**Moderately Low**. Pocket mice are the smallest members of the family Heteromyidae. Los Angeles pocket mouse is generally believed to occur in low elevation grasslands and sage scrub. Marginally suitable habitat is present on-site, however, the probability of occurrence is not considered likely.

Impact 1: Special-Status Species

Southern California black walnut is considered a special status plant species as it has a threatened rank (S3.2) in the CNDDB. Although this species is considered a List 4 "watch list" species by CNPS, there are very few List 4 plants that meet the definitions of Section 1901, Chapter 10 (Native Plant Protection Act) or Sections 2062 and 2067 (California Endangered Species Act) of the California Fish and Game Code, and few, if any, are eligible for state listing[22]. However, impacts to this species are considered in this analysis – the proposed project would result in the removal of nine (9) Southern California black walnut trees during project development. Therefore, the proposed project may have a substantial adverse effect, either directly or through habitat modifications, on Southern California black walnut, a species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. Impacts to the southern California black walnut trees are considered potentially significant and mitigation is required. **Mitigation Measure D-1** includes planting replacement trees either on-site or on adjacent project site; maintaining and monitoring the trees; and preserving the land supporting the replacement trees in perpetuity. This mitigation measure would also be in compliance with tree replacement requirements under the Mulholland Scenic Parkway Specific Plan and LAMC Ordinance 177,404. With implementation of **Mitigation Measure D-1,** impacts to southern California black walnut trees would be reduced to a less-than-significant level.

San Diego desert woodrat, a federal and state species of concern, has the potential to occur on-site in the several stick nests observed during site visits. However, the project as designed would avoid the nests observed on-site. Therefore, if any of this species are present on site, the project would avoid the direct impact of nest removal, which could result in potential harm or mortality to individuals or young. The location of the existing stick nests along Mulholland Drive indicate that the individuals that may occupy these nests are highly acclimated to vehicle noise, vibration and human disturbances; however, noise, vibration and incidental disturbance from crew activities due to project construction would be substantially greater and may disrupt breeding or nesting activities. Therefore, the proposed project may have a substantial adverse effect, either directly or through habitat modifications, on the San Diego desert woodrat, a species identified as a candidate, sensitive, or special-status species, and impacts to this species are potentially significant. This impact can be reduced to less-than-significant with the implementation of **Mitigation Measure D-2**. This measure would include avoidance and protection of nests during construction, hand removal of nests outside of the nesting season for nests that cannot be avoided, and project timing to avoid breeding disturbance. The project will have a less-than-significant impact on foraging habitat and territory for the San Diego desert woodrat, if present, as the species' home range is generally less than 0.5 acre, and their movement ranges from 14 to 80 meters per night; therefore, the remaining undisturbed habitat will provide adequate foraging and home range, which is approximately

[22] *California Native Plant Society. 2001. Inventory of Rare and Endangered Plants of California. CNPS, Sixth edition. August 2001.*

equal to their existing foraging territory considering that the existing chain link fence at the base of the slope along Mulholland Drive currently constitutes a barrier between the nests and much of the on-site habitat.

One special status reptile, the coastal western whiptail (federal species of concern), is present on-site; an additional five special status reptiles have a moderate to moderately high potential to occur on-site (San Bernardino ringneck snake [federal species of concern], Coast patch-nosed snake [federal and state species of concern], Silvery legless lizard [federal and state species of concern], San Diego mountain kingsnake [state species of concern], and horned lizard [federal and state species of concern]). Project construction would permanently remove occupied and potential on-site habitat for these species through conversion to residences and paved roadways. Project construction may also result in harm or mortality of individuals due to crushing or burial from site grading. Although a portion of the site will remain as open space following project construction, which would provide reduced but potentially viable habitat for these species, the quality of this habitat may be compromised due to increased noise and human activity in the adjacent development, increased unattended domestic pets (particularly cats) which are known to predate upon reptiles and amphibians, and possible "edge effects" such as an increase in trash, irrigation water and fertilizer. These impacts from the project may be considered potentially significant; however, these impacts can be reduced to a less-than-significant level through the implementation of **Mitigation Measure D-3**. This measure includes surveys to determine the population size and extent of special status reptiles on-site, pre-construction trapping surveys to relocate reptiles from the impact zone, monitoring by an approved biologist during project construction, and protection in perpetuity of on-site habitat where individuals are relocated.

Several special status birds have the potential to occur on-site, including Cooper's hawk (federal species of concern) and Bell's sage sparrow (federal and state species of concern). In addition, other raptors and migratory birds may nest in vegetation on the project site. Impacts to nesting activities of these special status birds, including interruption or cessation of breeding activities, egg laying and incubation, and rearing young, may be considered a significant impact. Vegetation and tree removal during grading may directly remove nests during the breeding season, and additional construction noise, vibration, and crew activities may result in disturbances to nesting and breeding activities. These impacts can be reduced to a less-than-significant level through the implementation of **Mitigation Measure D-4**. This measure includes requiring removal of vegetation outside of the breeding and nesting season, or pre-construction surveys and buffers to avoid nests if vegetation removal occurs during the breeding season.

Impact 2: Sensitive Natural Communities

One sensitive plant community, purple needlegrass grassland, is present on-site. The majority of this community will be impacted due to removal or degradation during project construction from grading on-site and along San Feliciano Drive, and from home and road installation. Any remaining habitat following project construction may be indirectly impacted due to invasion from installed landscape plants or increases in irrigation or fertilizer from new residential lawn or landscaping maintenance. Therefore,

In addition, an automatic irrigation system and fire resistant corridor shall be implemented to maintain and sustain the trees in perpetuity. The replacement trees shall be monitored annually for health and shall be replaced in the event of inadvertent mortality. (Refer to Mitigation Measure D-6 for further measures regarding trees to be removed and replaced.)

D-2 The following measures shall be implemented to avoid and minimize potential impacts to San Diego desert woodrat which has the potential to occur on-site:

- In order to protect the existing woodrat nests and to prevent impacts to breeding activities from construction-related disturbances such as noise and vibration, vegetation and grading activities within 100 feet of the existing nests shall be initiated prior to the breeding season for the San Diego desert woodrat (October through mid-July) and shall continue regularly throughout the breeding season; this will prevent woodrats from breeding during construction activities for that year, which will eliminate the possibility of abandonment of young if construction is initiated once breeding has already begun. In addition, the existing nests on-site shall be identified on all construction maps and flagged to aid in identification and avoidance by construction crews. A qualified biological monitor shall periodically evaluate the nests to ensure that they are not physically impacted during construction activities.

- If additional woodrat nests are found within the construction zone that will require removal, that nest should be dismantled by hand by a qualified biologist prior to grading and vegetation removal activities. The nest dismantling shall occur outside the breeding/weaning season (breeding occurs from October-May and weaning may occur through mid-July) and shall be conducted so that the nest material is removed beginning on the construction side of the nest, which will allow for any woodrats in the nest to escape into the adjacent remaining habitat. Care shall be taken during nest dismantling to ensure that any special status reptiles which may be cohabitating in the nest are not harmed; if possible, any special status reptiles encountered during nest dismantling shall be captured and relocated by a qualified biologist in accordance with Mitigation Measure D-3.

D-3 The following measures shall be implemented to avoid and minimize potential impacts to special status reptiles during and following project construction:

- Conduct field surveys to determine the presence or absence of special status reptiles on the project site, and their approximate population size and distribution if present. Surveys shall be conducted by a qualified biologist according to standard methods of surveying for reptiles. A report shall be submitted to the City, CDFG and USFWS documenting the surveys methods and results, including number and location of individuals observed and estimated population size.

- A plan shall be prepared by a qualified biologist to trap special status reptile individuals on-site prior to and during ground-disturbing construction activities and release them to nearby suitable habitat that will be protected in perpetuity; this may include preserved habitat areas on-site or

public lands in the vicinity if approved through a Memorandum of Understanding with the landholding agency (i.e. the City for the adjacent DWP Girard Reservoir property or Alizondo Drive Park, or the Santa Monica Mountains National Recreation Area). This plan shall be submitted to and approved by the City, CDFG and USFWS prior to implementation and prior to vegetation removal or ground disturbance. A follow-up report documenting trapping and relocation methods and results shall also be submitted to the City, CDFG and USFWS following construction.

- If special status reptiles are relocated to preserved habitat on-site, this area shall be protected during project construction using silt fencing or other fencing as approved by a qualified biologist. The protective fencing shall be installed prior to any ground disturbance or vegetation removal, and shall be maintained during all phases of project construction; fence maintenance shall be regularly monitored by a qualified biologist. No construction-related activities shall be allowed in the protected habitat, including storage of materials or equipment, or trespass by construction crew members. This preserved on-site habitat shall also be protected in perpetuity from the adjacent constructed residential development by appropriate permanent fencing as recommended and approved in the relocation plan described above. In addition, an educational pamphlet shall be prepared and distributed to all residents within the new development informing them of the harm that domestic outdoor cats have upon wildlife, and strongly discouraging residents from allowing their cats outdoors unattended.

- A qualified biologist shall be present during vegetation removal and grading activities to monitor activities and relocate any special status reptiles in accordance with the above plan in order to avoid impacts to any individuals remaining on-site following pre-construction trapping and relocation activities.

D-4 To avoid impacting nesting birds, special status birds and/or raptors, one of the following shall be implemented:

- Conduct vegetation removal and other ground disturbance activities associated with construction during September through February, when birds are not nesting. If feasible, initiate vegetation clearing and grading activities prior to the breeding season (March through July and keep disturbance activities constant throughout the spring to prevent birds from establishing nests in surrounding habitat in order to avoid abandonment of eggs or young if nesting establishes prior to construction activities;

  OR

- Conduct pre-construction surveys for nesting birds if construction is to take place during the nesting season. A qualified wildlife biologist shall conduct a pre-construction raptor survey no more than 30 days prior to initiation of grading to provide confirmation on presence or absence of active nests in the vicinity (at least 300 feet around the project site). If active nests are

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The FEIR quotes *part* of the Introduction of the Mulholland Scenic Parkway Specific Plan throughout, (see attached highlighted area from Page III-14) trying to give the impression that the Plan's Guidelines are meant more as suggestions than requirements, and that the Plan itself is quite amenable to property owners' rights.

Please see attached *full* Introduction for a more complete portrayal of the Plan's intent. Also, please note that the very first Guideline (see attached, Guideline 1 on Page 5 of Plan) refers to designing structures and grading to fit the existing topography of the site, rather than the other way around.

Response:

With respect to the Mulholland Scenic Parkway Specific Plan Design and Preservation Guidelines, the Introduction to that document provides the following information regarding the intent and purposes of the Guidelines:

> In general, the Specific Plan sets standards for projects proposed for the Scenic Parkway. These standards include environmental protection measures, grading limits, and building standards applicable to the Inner and Outer Corridors of the Parkway, as well as regulations affecting landscaping, Mulholland Drive and its right-of-way, the Core Trail, major vista points and utility construction.
>
> *In addition to theses standards, the Specific Plan also provides for a design review process, sets forth general design criteria, and establishes a Design Review Board (DRB). In the design review process, the DRB and the Director of Planning apply the standards and criteria in the Specific Plan to ensure that all proposed projects within the Parkway preserve the natural environment and terrain of the Santa Monica Mountains, protect the hillside character o the Parkway, are compatible with the Parkway environment, and do not obstruct the views from Mulholland Drive.*
>
> *The design guidelines, prepared pursuant to the Mulholland Scenic Parkway Specific Plan, state the policies, interpretations, and precedents used by the DRB in implementing the Specific Plan. The intent of this document is to guide applicants in designing projects that will be compatible with the Scenic Parkway environment, the Department of City Planning personnel in counseling applicants and evaluating application files, and the Department of Public Works and Transportation, utility companies and others regarding projects proposed for construction in the right of way of Mulholland Drive, including the creation of the Core Trail.*
>
> *These guidelines do not create entitlements, nor are they mandatory requirements. They provide direction on how the Mulholland Scenic Parkway can best be preserved while allowing appropriate development, and clarify what can be expected when a project is reviewed by the DRB and the Director. They recognize that individual projects and sites are different and present numerous and different design challenges. The guidelines do not require or expect every project applicant to address all the guidelines. An applicant should address the guidelines that are applicable to the proposed project and site conditions.*
>
> *The guidelines anticipate that flexibility and judgment will be used to balance the goals of the Specific Plan with the rights of property owners…(pages 3 and 4)*

Guideline 50 of the Mulholland Scenic Parkway Specific Plan Design and Preservation Guidelines sets the minimum information that the project applicant must submit to the Design Review Board and the Director for their consideration in making the decision regarding the project's neighborhood compatibility. The Guideline states the following:

MULHOLLAND SCENIC PARKWAY SPECIFIC PLAN DESIGN AND PRESERVATION GUIDELINES

SECTION 1. INTRODUCTION.

Mulholland Drive was conceived in 1913 by William Mulholland, Chief Engineer of the Los Angeles Water Department, as a great scenic road along the crest of the Santa Monica Mountains. Constructed in 1922, Mulholland Drive was designed to offer the public scenic views of the terrain, open space, and natural character of its mountain setting. In 1992, the Mulholland Scenic Parkway Specific Plan, Ordinance No. 167,943, was adopted by the Los Angeles City Council in response to public concerns that the majestic views and natural character of the Mulholland Drive setting were threatened by unrestricted development. The ordinance created the Mulholland Scenic Parkway, including both the Inner and Outer Corridors, which established land use controls and a design review process tailored to ensure that development within the Parkway is compatible with the unique character of the Santa Monica Mountains.

The Specific Plan encourages environmentally and aesthetically sensitive development in the Scenic Parkway and seeks to ensure that all projects, both public and private, are compatible with the Scenic Parkway environment. The Specific Plan provides regulations regarding the design, landscaping, and placement of private projects in order to preserve, complement and enhance the views from Mulholland Drive, as well as preserve the natural, hillside character of the entire Parkway. The Specific Plan also includes standards that apply to public projects along Mulholland Drive, such as utility construction and roadway design, so that the intended character of Mulholland Drive as a low-density, low-volume, slow-speed roadway in a hillside parkway-type setting is preserved.

In general, the Specific Plan sets standards for projects proposed for the Scenic Parkway. These standards include environmental protection measures, grading limits, and building standards applicable to the Inner and Outer Corridors of the Parkway, as well as regulations affecting landscaping, Mulholland Drive and its right-of-way, the Core Trail, major vista points, and utility construction.

In addition to these standards, the Specific Plan also provides for a design review process, sets forth general design criteria, and establishes a Design Review Board

(DRB). In the design review process, the DRB and the Director of Planning apply the standards and criteria in the Specific Plan to ensure that all proposed projects within the Parkway preserve the natural environment and terrain of the Santa Monica Mountains, protect the hillside character of the Parkway, are compatible with the Parkway environment, and do not obstruct the views from Mulholland Drive.

These design guidelines, prepared pursuant to the Mulholland Scenic Parkway Specific Plan, state the policies, interpretations, and precedents used by the DRB in implementing the Specific Plan. The intent of this document is to guide applicants in designing projects that will be compatible with the Scenic Parkway environment, the Department of City Planning personnel in counseling applicants and evaluating application files, and the Departments of Public Works and Transportation, utility companies and others regarding projects proposed for construction in the right of way of Mulholland Drive, including the creation of the Core Trail.

These guidelines do not create entitlements, nor are they mandatory requirements. They provide direction on how the Mulholland Scenic Parkway can best be preserved while allowing appropriate development, and clarify what can be expected when a project is reviewed by the DRB and the Director. They recognize that individual projects and sites are different and present numerous and different design challenges. The guidelines do not require or expect every project applicant to address all the guidelines. An applicant should address the guidelines that are applicable to the proposed project and site conditions.

The guidelines anticipate that flexibility and judgment will be used to balance the goals of the Specific Plan with the rights of property owners. The application of the guidelines should take into consideration whether a project is in the inner or outer corridor and whether a project is visible or not visible from Mulholland Drive. The guidelines use words such as "should", "avoid", "as possible" or "preferred" to express preferences or recommendations. The guidelines do not express mandatory requirements unless the Specific Plan ordinance does. For example, the "Preferred Plant List", Exhibit C, contains plants deemed appropriate for the Santa Monica Mountains environment, but it is not an exclusive list.

To ensure that approved projects continue to comply with the Specific Plan and follow these guidelines after they are constructed, the Board may recommend that the applicant record legal covenants to run with the land requiring the maintenance of the project as approved, including exterior appearance, landscaping, and other features of the project.

The symbol  located throughout these guidelines indicates a required submittal as part of the design review application package.

SECTION 2. SITE PLANNING.

GOAL 1: PRESERVE AND ENHANCE THE NATURAL CHARACTER OF THE SANTA MONICA MOUNTAINS AND THE SCENIC, HILLSIDE CHARACTER OF THE MULHOLLAND SCENIC PARKWAY.

Objective 1.1. *Design projects to minimize the visibility of the project as seen from Mulholland Drive, and to create a natural appearance compatible with the hillside characteristics of the Santa Monica Mountains.*

- ❑ **Guideline 1:** **Natural topography.** Minimize the amount of grading and the use of retaining walls. Design structures and grading to fit the natural topography and existing conditions of the site, rather than making changes in the topography to accommodate the structure. Incorporate natural slopes and deep-rooted native plants in the project to control erosion and undermining of slopes.

  - ❑ **Geotechnical issues.** The Department of Building and Safety is directly responsible for determinations concerning slope stability and other geotechnical issues. However, a geology and soils report may be requested of applicants and considered where such information is relevant to considering the configuration of architectural and landscape elements on the site, e.g., location of structures, retaining walls, hardscape features and plant material.

- ❑ **Guideline 2:** **Sloping site profile.** Where a building is situated on a site with a slope greater than 25 percent, the building should utilize a stepped-profile in which no portion of the building exceeds 25 feet in height, as measured from adjacent natural grade to the top of the roof or parapet wall directly above. Minimal grading and cut foundations should be utilized instead

physical environment. It is recognized under CEQA that a project that interferes with scenic views has an adverse aesthetic effect on the environment. However, the City's CEQA Guidelines do not consider the obstruction of private views to be a significant environmental impact. Under CEQA, the question is whether a project will affect the environment of persons in general, not whether a project will affect particular persons. Therefore, given the limited scope of the impact the proposed project would have on primarily private views, the proposed project's effect on private views would be adverse, but less than significant.

With respect to a smaller project, the Draft EIR assesses Alternative 2 which would develop 29 homes on the project site. Similar to the proposed project, Alternative 2 would also have less-than-significant visual impacts. Also, see Response to Comment No. 5-3.

The preference for a smaller project is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

With respect to the comment that "we see no public policy justification to certify an EIR that does not comply with the MSPSP" see Response to Comment No. 16-7.

Comment No. 5-27:

In addition, we support both the DEIR Alternative 1 and DEIR Alternative 3. It would be in the community's best interest to have the applicant work with SMMC and MRCA to make Alternative 3 a viable solution, and allow the property remain as open parkland. Again, just because Alternative 3 does not meet the applicant's DEIR project objective of creating 37 units, by no means that the City has to honor that application.

Response:

This comment expresses preference for the alternatives, but does not state a specific concern or question regarding the adequacy of the analysis contained in the Draft EIR. Therefore, a response is not required pursuant to CEQA. However, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

- THESE VIEWS ARE NOT "PRIMARILY PRIVATE."
IT AFFECTS ALL THOSE IN THE NEIGHBORHOOD
WHO PASS THE PROPERTY.

EIR Section V.D. There are no potentially significant historical elements on the project site (see Initial Study, Appendix A in the Draft EIR). See Draft EIR Table V.F-2 for a discussion of the project's consistency with the Mulholland Scenic Parkway Specific Plan.

Comment No. 13-3:

The DEIR downplays the occurrence of important animal and plant species on the project site, but both CEQA and the Santa Monica Mountains Conservancy agree that many sensitive species may be there, whether they were spotted recently or not. According to CEQA, (IV-6): "The project site is in close proximity to large expanses of relatively undisturbed open space located to the south of Mulholland Drive, and the California Natural Diversity Data Base lists three sensitive plant communities for the Canoga Park USGS Topographic Quad Sheet, where the project is located." The Santa Monica Mountains Conservancy, (V.D-25) says, "Thirty-two special status species of wildlife have been recorded, or have the potential to occur, in the vicinity of the project site..."

THIS IS INCORRECTLY QUOTED - SHOULD BE: "3 SENSITIVE WILDLIFE SPECIES, 5 SENSITIVE PLANT SPECIES, + 2 SENSITIVE PLANT COMMUNITIES..." SEE ATTACHED

Response:

The Draft EIR adequately analyzed sensitive species known from the project vicinity (Table V.D-3) and analyzed each species for its potential to occur on the project site given the site's amount, quality and type of habitat(s). In addition, Fish and Game did not raise any concerns regarding the adequacy of the sensitive species analysis impacts in its Draft EIR comment letter.

¥ The source of the comment's quote is not evident, however it is clearly not from CEQA, which is an acronym for California Environmental Quality Act.

This response is also applicable to Alternative 2.

Comment No. 13-4:

The DEIR does admit to evidence on the site of mammalian, reptilian, and avian "Federal and/or State Species of Concern". Per Fish and Game's regulations, they have a plan to work around the approximately 6 month breeding and nesting season of the San Diego Desert Woodrat and certain birds, avoiding noise and vibration near their nests, trapping and relocating when necessary. A worthy goal to which we're sure some effort (however incomplete) would be made, but I find it hard to believe that they'll keep it up for two years, as they later on specify a 24 month planned construction schedule. In addition, Fish and Game does not support relocation of species in a situation like this as a solution for mitigation, as it's generally an unsuccessful tactic. Fish and Game also requests a 500 foot buffer between any raptor nests and ongoing construction. There are red-tailed hawks in residence, and I don't see how they can meet this condition, given the plan layout.

Response:

The mitigation measures would not require a complete halt in the construction process. Mitigation Measure D-2 allows for initiation of construction activities prior to the woodrat breeding season which begins in October; continuation of these activities into the breeding season would preclude woodrat

¥ - SOURCE OF QUOTE IS CAJA, NOT CEQA, FROM DEIR TECHNICAL APPENDICES. SEE ATTACHED

INITIAL STUDY

VESTING TENTATIVE TRACT MAP NO. 61553

PREPARED FOR:
City of Los Angeles
Planning Department
200 N. Spring Street
Los Angeles, CA 90012

OWNER/APPLICANT:
DS Ventures
8383 Wilshire Boulevard, Suite 1000
Beverly Hills, CA 90211

PREPARED BY:
Christopher A. Joseph & Associates
31255 Cedar Valley Drive, suite 222
Westlake Village, CA 91362

August 2005

Cumulative Impacts

Less-Than-Significant Impact. Based on SCAQMD guidelines, cumulative air quality impacts are not analyzed in a manner similar to operational air quality impacts. Cumulative methods are different than the methodology used throughout the remainder of this Initial Study in which all-foreseeable future development within a given service boundary or geographical area is predicted and quantified. Instead, the SCAQMD's recommends that cumulative air quality analysis methods be based on performance standards and emission reduction targets necessary to attain the Federal and State air quality standards identified in the AQMP, which was established to attain future air quality standards. If an individual project is consistent with the AQMP performance standards, the project's cumulative impact should be considered less than significant. Based on the analysis provided earlier in the additional air quality analysis section, the proposed project is consistent with the AQMP and consequently, would not result in a significant cumulative air quality impact.

4. BIOLOGICAL RESOURCES

a) Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulation, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

Potentially Significant Impact. The project site has been largely disturbed by residential development and ornamental landscaping. Additionally, the project site is surrounded by residential development, an abandoned reservoir, a private school, and commercial uses. Because of the extent of onsite disturbance and surrounding development, there would be less potential for sensitive species to occur on the project site, compared to less disturbed sites of comparable area. However, the project site is in close proximity to large expanses of relatively undisturbed open space located to the south of Mulholland Drive, and the California Natural Diversity Data Base[3] lists three sensitive wildlife species, five sensitive plant species, and two sensitive plant communities for the Canoga Park USGS Topographic Quad Sheet, where the project site is located. Therefore, there is the potential that sensitive species and/or plant communities could occur on the project site. Consequently, project impacts are potentially significant and will be fully discussed in the Draft EIR.

Oak and black walnut trees are considered to be protected trees by the City of Los Angeles, and they occur on the project. Impacts to oak and black walnut trees are discussed in Section 4 (e), below.

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3 *http://www.dfg.ca.gov/whdab/html/quick_viewer_launch.html*

will purchase the DWP property, and that will change requirements for the developer. For instance, if the Santa Monica Mountains Conservancy buys this land, it will require a 200 foot buffer from any development. The DEIR does not address this issue with any seriousness. The project site shares a boundary with another parcel that may be acquired as open space, and this cannot be ignored.

Response:

See Response to Comment No. 5-5.

Comment No. 13-11:

They don't have a problem with this development. However, the average response time for the LAPD in the West Valley in 2004 (last available statistics) to an emergency call was 7.4 minutes. The L.A. city average is 6.5 minutes. Police are already understaffed in this area. Any development only makes it worse.

Response:

Project impacts to Police Protection Services were assessed in the Initial Study, which determined impacts would be less than significant (see Draft EIR, Appendix A). According to the Police Department, the project would not result in the need for the expansion of existing or the construction of new police facilities, which is the threshold of significance (see Draft EIR Appendix D).

Comment No. 13-12:

According to the Fish and Game response to NOP, its mission "...opposes the elimination of watercourses (including concrete channels)...All wetlands and watercourses, whether intermittent, ephemeral or perennial, must be retained and provided with substantial setbacks..." On (V. D-9), the definition of a stream is equally broad. It "...includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation."

Riparian vegetation is present on the property. "Two small patches of willow scrub vegetation occur on-site; both patches are within the historic alignment of the non-jurisdictional blue-line stream on the site. One patch is located at the south edge of the sire, along Mulholland Drive at the location of the presumed drainage outlet onto the project site. The second patch is found in the vicinity of the pond in the southwest corner of the project site." (V.D-13)

"Willow scrub is often considered a sensitive plant community as it is usually associated with creeks and riparian habitat." (V.D-28) Then the same passage contradicts itself by stating that the "...willow scrub on the site is nor located within riparian habitat." We beg to differ. Both patches are right where the blue-line stream is indicated on old maps. And a pond is mentioned, although it is presently dry. May we point out that this year is setting records for the least rainfall in L.A. in more than recent memory? There may be water, just not easily discernible this year. Some "Species of Concern" and their dens have been discovered on the property. They wouldn't use as a nursery an area that had no water.

- NEVER ADDRESS THE LACK OF RAINFALL IN 2007 POSSIBLY CREATING DIFFICULTY IN FINDING WHAT IS AN "INTERMITTANT STREAM", OR WHY WILDLIFE COULD HAVE DENS THERE.

Given the evidence, it seems that the DEIR should have looked a little harder for the presence of water on the site. A 1967 map indicates the blue-line stream's presence. We need an updated and accurate map before we can determine the truth of the matter. The water on this property may be "intermittent" or "ephemeral", but even that has special status according to Fish and Game.

Response:

The Fish and Game NOP letter stated that wetlands and watercourses must be retained; however, this can only be accomplished if such features are actually present on-site. An assessment of the project site by several biologists (TeraCor and CAJA) with years of wetland and water delineation experience concluded that jurisdictional features were not present and, therefore, a formal delineation of such features was unnecessary. In addition, Fish and Game did not raise any concerns regarding this issue in their Draft EIR comment letter; their comment to the NOP regarding watercourses was language that is typical to most Fish and Game generic response letters which are generated to address a range of potential issues that may occur on many sites but are not necessarily specific to a particular site.

Although willow scrub is present, it is not considered to be riparian. The Draft EIR defines riparian as, "on, or pertaining to, the banks of a stream;" however, a "stream" is no longer present on-site as described in the Draft EIR. Therefore, riparian vegetation is not present on-site (for further discussion of the blue-line stream, see Response to Comment No. 5-8).

Comment No. 13-13:

In letters in response to NOP: Michael Condro at 4724 Conejo wrote a letter in which he mentions the flow of water through his property when it rains. The DEIR believes current storm drains are sufficient. Perhaps a survey of the residents owning properties immediately below the projected development site should be done.

Response:

Technical Appendix E-1 contains the preliminary hydrology study for the proposed project. Technical Appendix E-2 contains a more detailed hydrology study for Alternative 2. Based upon the information provided by these reports which have been submitted to the City of Los Angeles for review and approval, the Initial Study (Draft EIR, Appendix A) determined that the proposed project would not have a significant effect with respect to hydrology. In contrast, the comment presents no evidence, data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the implied contention that the proposed project would cause downstream flooding. Pursuant to CEQA Guidelines Section 15064, an effect is not considered significant in the absence of substantial evidence. Therefore, no further response is necessary.

Comment No. 13-14:

The Coast Live Oaks that would be removed are all over eight inches in diameter and therefore protected by the City of Los Angeles Tree Ordinance. (IV-8) "...there is oak woodland on the project site, which is a

sensitive habitat area."(IV-7) There are so many agencies against cutting down oak and other protected trees for any reason; it's hard to understand why the developer couldn't come up with a plan to work around all of them. They somewhat ingenuously state that the zoning change to RD6 is necessary to save more trees. That's deceptive. It's really the type of homes they've chosen to build that have dictated the necessity of tree removal. How about building fewer homes with various layouts that work with the existing landscape? Keeping additional trees also has the advantage of helping them mitigate the air pollution emitted during construction.

Response:

Neither Los Angeles City Ordinance No. 177,404 (the Protected Tree Relocation and Replacement Ordinance) nor the Mulholland Scenic Parkway Specific Plan prohibit the removal of protected species trees, but rather serve as vehicles to "assure the protection of, and to further regulate the removal of, protected trees". All trees scheduled for removal under the proposed project are subject to the granting of a permit to do so by means of the approval of the Advisory Agency and Planning Director in consultation with the City's Chief Forester.

Regarding the comment that "there is oak woodland on the project site, which is a sensitive habitat area." The General Biological Assessment (Assessment) provided by TeraCor (refer to Appendix G-1) states that a portion of the site contains habitat that could be identified as coast live oak woodland, however, the understory elements of the oak woodland are absent and have been replaced with non-native grasses and ornamental trees. The Assessment also states that the habitat values of the site are substantially diminished because of the aforementioned understory degradation and the fact that the area surrounding the site is fully developed. Further, while the coast live oak woodland plant community is listed in the California Natural Diversity Database (CNDDB) it is only assigned a sensitivity ranking of G4 S4, which means that this plant community is apparently secure. Coast live oak woodland is well distributed throughout southern California and the Santa Monica Mountains, which is in the project vicinity to the south. In addition, the proposed project would retain much of the existing oak woodland on site, the majority of which is located along the southern and eastern boundaries and in the northeastern corner of the site.

Regarding the comment referring to project design to avoid tree impacts, please refer to section V.B., Aesthetics, pages V.B-13 to V.B.-14 for a discussion concerning the use of retaining walls throughout the project site in an effort to reduce the proposed project's grading "footprint" to protect and preserve as many trees as feasible. It should be noted that while the proposed project would remove 37 trees, it would preserve and protect 160 trees, or over 81 percent of those currently existing on the site.

Project design impacts related to trees with the implementation of Alternative 2, which would not require a zone change and would build fewer homes on the site, would be slightly more significant, as Alternative 2 would require the removal of a total of 41 trees (including 11 oaks and 9 walnuts). As with the proposed project, Alternative 2 also uses retaining walls throughout the site plan to reduce the grading 'footprint' to the extent feasible.

- FEWER HOMES OF VARYING DESIGN = MORE TREES.

THEY COULD PROPOSE A SMALLER PROJECT

sensitive habitat area."(IV-7) There are so many agencies against cutting down oak and other protected trees for any reason; it's hard to understand why the developer couldn't come up with a plan to work around all of them. They somewhat ingenuously state that the zoning change to RD6 is necessary to save more trees. That's deceptive. It's really the type of homes they've chosen to build that have dictated the necessity of tree removal. How about building fewer homes with various layouts that work with the existing landscape? Keeping additional trees also has the advantage of helping them mitigate the air pollution emitted during construction.

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-THE OAK WOODLAND MAY BE "DIMINISHED", BUT IT'S BETTER THAN NOTHING. AND THERE MAY BE PLENTY IN OTHER PARTS OF S. CA., NOT WOODLAND HILLS.

While it has been demonstrated that trees do have the ability to reduce some elements of air pollution, the trees themselves are also affected by air pollutants currently present in the Los Angeles Air Basin, which impairs this ability. Therefore, while there may be some very minor reduction in air pollutants as a result of preserving additional trees on the project site during construction, the ability of the trees to remove pollutants may also be impaired by the existing air pollution. Following construction, there would actually be an increased number of trees on the project site due to the required 2:1 mitigation for the oak and walnut removals and a 1:1 replacement for all others, meaning that the proposed project would replant a minimum of 55 new trees, 18 of which would be of a minimum of 36-inch box size.

Comment No. 13-15:

On (V.B-4), they describe the majority of trees on the property as having less than stellar aesthetic value, due to their indifferent or poor condition. Perhaps we should have another tree study done, as most of the trees look beautiful to the average passerby. Certainly, whatever state they're in, they're a lot prettier to look at than 37 boxy concrete structures.

Response:

This comment expresses an opinion regarding the quality of the tree report provided for the proposed project. The tree report was prepared by a tree expert as designated under City of Los Angeles Ordinance 177,404 in accordance with presently accepted industry procedures as outlined by the International Society of Arboriculture.[3] The comment's comment that the trees are beautiful is acknowledged for the record and will be forwarded to the decision-making bodies for their consideration. However, no evidence has been presented to support the contention that another tree report should be prepared.

Comment No. 13-16:

The DEIR says that replacement trees will be monitored for three years to ensure their continuing good health. What happens if they die in the fourth year? Will they be replaced, and who will pay for it? Will anyone monitor the health of the trees that are not cut down? Damage to them incurred at the time of construction may be hard to spot for many years, and they need to be monitored, too. Their solution, "A homeowners association would be responsible for the maintenance of the open space," (II-20), is not sufficient. Handing out a pamphlet on oaks trees to anyone who buys a house won't do much unless they clearly understand that their homeowners' fee may later be assessed for damage to huge oaks done during initial construction.

Response:

As required by City of Los Angeles Ordinance 177,404, following the completion of the construction of the proposed project, the project applicant will post a cash bond or other assurances acceptable the Bureau of Engineering in consultation with the Urban Forestry Division and the Advisory Agency guaranteeing

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[3] *International Society of Arboriculture, Tree Ordinance Guidelines, http://www.isa-arbor.com/publications/tordinance.aspx accessed 3/21/07.*

-THEIR RESPONSIBILITY IS ONLY FOR 3 YRS. SOME DAMAGE MAY NOT BE EVIDENT UNTIL MUCH LATER

price of the future homes is based upon market demand, development costs and profit margin. The distinction the comment makes between architectural style and innate design is not evident and cannot be addressed.

Comment No. 13-19:

"As per the requirements of the Mulholland Scenic Parkway Specific Plan, although the type of ownership would be detached single-family condominium, the resulting project would look like a conventional single-family project." (V.B-13) We can't determine the accuracy of the statement without seeing renderings of home designs to compare them to homes in the area.. According to what we do know, the request for height exceptions, and the boxy shape and apparent square footage on the site maps leads us to believe the project will look like a condo complex.

Response:

The term "condominium" refers to the type of ownership not the physical arrangement of the homes on the land. In a typical R-1 subdivision, each home is built on a separate lot. The proposed project would build all the homes on two lots. While the individual home owners would own their homes they would not individually own the land upon which the homes sit. Rather, the land would be owned in common and managed by the homeowners' association.

Comment No. 13-20:

Mulholland Scenic Parkway Specific Plan regulations on (V.F-15) state, "There shall be a front yard of not less than 20% of the depth of the lot, but which need not exceed 40 feet." To this, the DEIR says they are consistent because "...the front year along Mulholland Drive is greater than or equal to 40 feet at all points along the frontage." (V.F-15) However, the intention of the regulation is that individual homes (my italics) will have a front yard fulfilling the requirements, and I believe the DEIR has used the front of the entire project to come up with the 40 feet. They do the same thing with side yard regulations.

Response:

The comment has correctly identified one of the aspects that distinguish the proposed condominium project from a typical R-1 subdivision. Because this is a condominium project the home owners will not have their own front yards; rather they will share ownership in what is essentially one front yard.

Comment No. 13-21:

In the opinion of the Santa Monica Mountains Conservancy, no exceptions to the Mulholland Scenic Parkway Specific Plan should be allowed. Only the amount of housing that could be constructed within its restrictions should go forward.

Response:

-THEY DELIBERATELY MISUNDERSTAND THE COMMENT, WHICH OBVIOUSLY DID NOT RELATE TO "TYPE OF OWNERSHIP" BUT THE "APPEARANCE" OF THE HOMES. THEY CHOSE NOT TO ANSWER

❑ **Other building height restrictions.** Applicants should be aware that building height may be subject to legal restrictions in the Los Angeles Municipal Code other than those of the Specific Plan, such as the Hillside Ordinance. In addition, the project may be subject to other requirements, such as subdivision covenants, rights of way, prevailing setback requirements, and the conditions of tract approval adopted under the Subdivision Map Act. In instances where these requirements may overlap, the more stringent requirement prevails.

❑ **Guideline 32:** **Massing.** The main building should combine three or more building elements, each within its own associated roof form. A building element can be a major horizontal mass, a setback or a projection from the face of the other masses.

❑ **Guideline 33:** **Lot coverage.** The building footprint, including all structures 6'-0" or more above grade, should have a low ratio to the total lot area, and should cover less than 60 percent of the area within the first 15'-0" from the front yard property line.

❑ **Guideline 34:** **Building articulation.** Design the exterior surface (building elevations) of any structure to be articulated, presenting a variety of surfaces, textures and angles. Avoid designs that include exterior walls or retaining walls that are characterized by large, flat surfaces. Boxy houses with flat sides are not considered acceptable.

✍ **Architectural Elevations.** The applicant needs to provide elevations of all facades.

❑ **Guideline 35:** **Roof form.** Flat roofs should not be utilized, particularly on downslope lots. Roofs should be designed to follow the predominant slope of the land. Where a flat roof must be proposed, a secondary roof

price of the future homes is based upon market demand, development costs and profit margin. The distinction the comment makes between architectural style and innate design is not evident and cannot be addressed.

Comment No. 13-19:

"As per the requirements of the Mulholland Scenic Parkway Specific Plan, although the type of ownership would be detached single-family condominium, the resulting project would look like a conventional single-family project." (V.B-13) We can't determine the accuracy of the statement without seeing renderings of home designs to compare them to homes in the area.. According to what we do know, the request for height exceptions, and the boxy shape and apparent square footage on the site maps leads us to believe the project will look like a condo complex.

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Comment No. 13-21:

In the opinion of the Santa Monica Mountains Conservancy, no exceptions to the Mulholland Scenic Parkway Specific Plan should be allowed. Only the amount of housing that could be constructed within its restrictions should go forward.

Response:

- THEY DELIBERATELY MISUNDERSTAND THE COMMENT. THEY ARE PERVERTING THE INTENTION OF THE MSPSP YARD REQUIREMENTS BY USING CONDO REQUIREMENTS

This comment purports to express the opinion of the Santa Monica Mountains Conservancy, but does not state a specific concern or question regarding the adequacy of the analysis contained in the Draft EIR. Therefore, a response is not required pursuant to CEQA. However the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 13-22:

Although the DEIR does say that the project site is "archeologically sensitive" and that an archeologist needs to be present during topsoil grading, it doesn't say why. The reason is its proximity to a quite well-known prehistoric archeological site (CA-LAN-246), a large village dating from 1200-1400 or earlier. The main area of this site is located 100 yards south of the intersection of Mulholland Drive and Mulholland Highway, and maps show it extending up to the project area. The main area was discovered during construction in 1963 and some excavation and study was done by UCLA. Regrettably, this main area was subsequently during further development in 1978.

Although nothing archeologically interesting was discovered by W & S Consultants on the property right now, they do note that portions of the area were "...covered by imported fill." (P.28) So they couldn't search everywhere. But an archival records search done by South Central Costal Information Center does classify the area as containing the following: "...one archeological site (19-00246*) has been identified within a 1/8 mile radius of the project site." (my italics) Most of this ancient inhabitation, south of Mulholland, is already destroyed due to development. Its complete loss to the same cause would not constitute a "less than significant" impact.

Response:

EIRs purposefully do not disclose the location of known archaeological sites to protect them from vandals. If archaeological remains were encountered during development, compliance with Conditions of Approval Nos. 5-1, 5-2 and 5-3 of the Initial Study (see Draft EIR Technical Appendix A) would be sufficient to reduce impacts to a less-than-significant level.

Comment No. 13-23:

According to the DEIR, since the Crimson oil line has been there since 1944, and the Union Oil line since 1956, there is little chance of any rupture due to construction. In our opinion, the very age of the lines suggests the opposite. Even if they don't run into it, any vibration may cause leakage in aging pipes. CEQA's study finds that a high pressure gas line runs adjacent to the project site on the northwest side of Mulholland Drive. This gasline is partially exposed. There is always the possibility of an accident during construction, and it's very near Louisville High School. The DEIR greatly minimizes the possibility of accidents with these oil and gas lines.

Response:

There are numerous pipelines that run through the greater Los Angeles region. Construction in the vicinity of those pipelines is a common occurrence without causing leaks. Furthermore, there are

-THEY HAVE DELETED THE MOST SIGNIFICANT QUOTE IN MY COMMENT: "THIS ARCHEOLOGICAL SITE IS LOCATED WITHIN THE PROJECT SITE." (SEE ATTACHED FOR HOW IT SHOULD READ)

be monitored, too. Their solution, "A homeowners association would be reponsible for the maintenance of the open space,"(II-20), is not sufficient. Handing out a pamphlet on oak trees to anyone who buys a house won't do much unless they clearly understand that their homeowners' fee may later be assessed for damage to huge oaks done during initial construction.

MULLHOLLAND SCENIC PARKWAY SPECIFIC PLAN

The DEIR says it will request exceptions to the Mulholland Scenic Parkway Specific Plan regarding viewshed, height of homes, and retaining walls, but needs to be more specific on the actual nature of the requests. In addition, its pronouncements regarding architecture and design are misleading. For instance:

"Architectural style has not yet been determined; nor have floor plans, elevations, or renderings yet been developed." (II-20) If this is the case, how do the developers already know that they will require height exceptions from the Mulholland Scenic Parkway Specific Plan? If they don't know a basic floor plan with the square footage they intend to build, how would they know which trees have to be removed and how much to charge for the homes? (The price is around $1,000,000.) Thus, when they refer to "architectural style", they are only talking about the outside embellishments on the house and not its innate design.

"As per the requirements of the Mulholland Scenic Parkway Specific Plan, although the type of ownership would be detached single-family condominium, the resulting project would look like a conventional single-family project." (V.B-13) We can't determine the accuracy of that statement without seeing renderings of home designs to compare them to homes in the area. According to what we do know, the request for height exceptions, and the boxy shape and apparent square footage on the site maps leads us to believe the project will look like a condo complex.

Mulholland Scenic Parkway Specific Plan regulations on (V.F-15) state, "There shall be a front yard of not less than 20% of the depth of the lot, but which need not exceed 40 feet." To this, the DEIR says they are consistent because "...the front yard along Mulholland Drive is greater than or equal to 40 feet at all points along the frontage." (V.F-15) However, the intention of the regulation is that *individual homes* (my italics) will have a front yard fulfilling the requirements, and I believe the DEIR has used the front of the entire project to come up with the 40 feet. They do the same thing with side yard regulations.

In the opinion of the Santa Monica Mountains Conservancy, no exceptions to the Mulholland Scenic Parkway Specific Plan should be allowed. Only the amount of housing that could be constructed within its restrictions should go forward.

ARCHEOLOGICAL SURVEY

Although the DEIR does say that the project site is "archeologically sensitive" and that an archeologist needs to be present during topsoil grading, it doesn't say why. The reason is its proximity to a quite well-known prehistoric archeological site (CA-LAN-246), a large village dating from 1200-1400 or earlier . The main area of this site is located 100 yards south of the

intersection of Mulholland Drive and Mulholland Highway, and maps show it extending up to the project area. The main area was discovered during construction in 1963 and some excavation and study was done by UCLA. Regrettably, this main area was subsequently destroyed during further development in 1978.

Although nothing archeologically interesting was discovered by W & S Consultants on the property right now, they do note that portions of the area were "...covered by imported fill." (P.28) So they couldn't search everywhere. But an archival records search done by South Central Coastal Information Center does classify the area as containing the following: "...one archeological site (19-000246*) has been identified within a 1/8 mile radius of the project site. *This archeological site is located within the project site.*" (my italics) Most of this ancient inhabitation, south of Mulholland, is already destroyed due to development. Its complete loss to to the same cause would not constitute a "less than significant" impact.

PIPELINES

According to the DEIR, since the Crimson oil line has been there since 1944, and the Union Oil line since 1956, there is little chance of any rupture due to construction. In our opinion, the very age of the lines suggests the opposite. Even if they don't run into it, any vibration may cause leakage in aging pipes. CEQA's study finds that a high pressure gas line runs adjacent to the project site on the northwest side of Mulholland Drive. This gasline is partially exposed. There is always the possibility of an accident during construction, and it's very near Louisville High School. The DEIR greatly minimizes the possibility of accidents with these oil and gas lines.

GRADING

Is it possible that grading may destabilize current homes? The DEIR does not believe that will happen. However, some homes bordering this lot suffered significant earthquake damage during the 1994 Northridge temblor, and the area may hold some surprises if the land is disturbed. A lot of it is fill.

FLAG LOTS

From the looks of the plan layout, four or five homes will, in effect, be flag lots. Councilman Zine just put forth a proposal to stop the subdivision of Walnut Acres properties into flag lots.

ALTERNATIVE TWO PROJECT

The developers' description of their Alternative Two is obviously something they're not interested in building, since they went out of their way to make it less attractive to area residents. They're using the excuse that current zoning demands the more negative aspects (see below), but it really doesn't make any sense. If it's twenty nine homes instead of thirty seven, basic logic will tell you it should be possible to come up with a plan that doesn't require:

- More points of access than their initial plan
- More retaining walls than their initial plan

13

This comment purports to express the opinion of the Santa Monica Mountains Conservancy, but does not state a specific concern or question regarding the adequacy of the analysis contained in the Draft EIR. Therefore, a response is not required pursuant to CEQA. However the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 13-22:

Although the DEIR does say that the project site is "archeologically sensitive" and that an archeologist needs to be present during topsoil grading, it doesn't say why. The reason is its proximity to a quite well-known prehistoric archeological site (CA-LAN-246), a large village dating from 1200-1400 or earlier. The main area of this site is located 100 yards south of the intersection of Mulholland Drive and Mulholland Highway, and maps show it extending up to the project area. The main area was discovered during construction in 1963 and some excavation and study was done by UCLA. Regrettably, this main area was subsequently during further development in 1978.

Although nothing archeologically interesting was discovered by W & S Consultants on the property right now, they do note that portions of the area were "...covered by imported fill." (P.28) So they couldn't search everywhere. But an archival records search done by South Central Costal Information Center does classify the area as containing the following: "...one archeological site (19-00246*) has been identified within a 1/8 mile radius of the project site." (my italics) Most of this ancient inhabitation, south of Mulholland, is already destroyed due to development. Its complete loss to the same cause would not constitute a "less than significant" impact.

Response:

EIRs purposefully do not disclose the location of known archaeological sites to protect them from vandals. If archaeological remains were encountered during development, compliance with Conditions of Approval Nos. 5-1, 5-2 and 5-3 of the Initial Study (see Draft EIR Technical Appendix A) would be sufficient to reduce impacts to a less-than-significant level.

ATTACHED

Comment No. 13-23:

According to the DEIR, since the Crimson oil line has been there since 1944, and the Union Oil line since 1956, there is little chance of any rupture due to construction. In our opinion, the very age of the lines suggests the opposite. Even if they don't run into it, any vibration may cause leakage in aging pipes. CEQA's study finds that a high pressure gas line runs adjacent to the project site on the northwest side of Mulholland Drive. This gasline is partially exposed. There is always the possibility of an accident during construction, and it's very near Louisville High School. The DEIR greatly minimizes the possibility of accidents with these oil and gas lines.

Response:

There are numerous pipelines that run through the greater Los Angeles region. Construction in the vicinity of those pipelines is a common occurrence without causing leaks. Furthermore, there are

– RESPONSE IS INADEQUATE - I BELIEVE A CULTURALLY AFFILIATED NATIVE AMERICAN SHOULD ALSO BE PRESENT

4.2 Field Results

The 22241 and 22251 Mulholland Drive study area was found to have been heavily modified over the years. Roughly 75% of the study area had experienced surficial grading or filling; at the time of the survey this was covered with low density grasses, with occasional oaks present as well. A modern stable/barn is also present on the property.

No evidence of archaeological resources of any kind were noted on the property, but portions of it were covered by imported fill.

5.0
CONCLUSIONS AND RECOMMENDATIONS

An intensive Phase I archaeological survey was conducted for the 22241 and 22251 Mulholland Drive study area, Woodland Hills, Los Angeles County, California. This involved background studies reviewing the prehistory, ethnography and history of the study area; an archival records search to determine whether any prehistoric or historical archaeological sites had been recorded or were known to exist on this property; and an intensive on-foot survey of the study area.

Background studies demonstrated that portions of the 22241 and 22251 Mulholland Drive study area had been previously surveyed but that no sites had been recorded on it. However, the study area is near to a well-known archaeological site, CA-LAN-246. On-foot intensive survey of the study area failed to find any evidence of cultural resources.

SEE LETTER FROM NATIVE AMERICAN HERITAGE COMM.

5.1 Recommendations

No evidence for archaeological sites of any kind was found within the 22241 and 22251 Mulholland Drive study area. Development of this study area therefore does not have the potential to result in adverse impacts to cultural resources. Portions of the study area were found to be covered with imported fill, however, with the proximity of the study area

LACK OF SURFACE EVIDENCE DOESN'T PRECLUDE SUBSURFACE EXISTENCE OF ARTIFACTS

to well-known site CA-LAN-246 making it archaeologically sensitive. We recommend accordingly that an archaeologist be present during topsoil grading, to ensure that any buried archaeological deposit is not inadvertently disturbed without treatment.

THEIR RECOMMENDATION

6.0
CITED REFERENCES

Arnold, J.
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Bean, L.J. and K.S. Saubel
1972 *Temalpakh: Cahuilla Indian knowledge and usage of plants.* Morongo: Malki Museum.

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1924 A Brief Sketch of Serrano Culture. *American Anthropologist* 26:366-392.

Bolton, H.E.

STATE OF CALIFORNIA — Arnold Schwarzenegger, *Governor*

NATIVE AMERICAN HERITAGE COMMISSION
915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-4082
(916) 657-5390 - Fax

December 1, 2005

Jonathan Riker
Los Angeles City Planning Department
200 No. Spring Street, 7th Floor
Los Angeles, CA 90012

RE: SCH# 2005111054 – Vesting Tentative Tract No. 61553, Mulholland Drive / Mulholland Highway, City and County of Los Angeles

Dear Mr. Riker:

The Native American Heritage Commission has reviewed the Notice of Preparation (NOP) regarding the above referenced project. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA guidelines 15064(b)). To adequately comply with this provision and mitigate project-related impacts on archaeological resources, the Commission recommends the following actions be required:

- ✓ Contact the appropriate Information Center for a record search to determine:
  - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measurers should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for pubic disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- ✓ Contact the Native American Heritage Commission for:
  - A Sacred Lands File Check. **Sacred Lands File check completed, no sites indicated**
  - A list of appropriate Native American Contacts for consultation concerning the project site and to assist in the mitigation measures. **Native American Contacts List attached**
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
  - Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely,

Rob Wood
Environmental Specialist III
(916) 653-4040

CC: State Clearinghouse

- BECAUSE OF INFO FROM SOUTH CENTRAL COASTAL INFORMATION CENTER, A CULTURALLY AFFILIATED NATIVE AMERICAN, AS WELL AS AN ARCHEOLOGIST, SHOULD MONITOR THE SITE. (SEE ATTACHED)

Native American Contacts
Los Angeles County
December 1, 2005

Charles Cooke
32835 Santiago Road
Acton , CA 93510
(661) 269-1244
Chumash
Fernandeno
Tataviam
Kitanemuk

Patrick Tumamait
992 El Camino Corto
Ojai , CA 93023
yanahea2@aol.com
(805) 640-0481
(805) 216-1253 Cell
Chumash

Beverly Salazar Folkes
1931 Shadybrook Drive
Thousand Oaks , CA 91362
805 492-7255
Chumash
Tataviam
Fernandeño

San Luis Obispo County Chumash Council
Chief Mark Steven Vigil
1030 Ritchie Road
Grover Beach , CA 93433
chiefmvigil@fix.net
(805) 481-2461
(805) 474-4729 - Fax
Chumash

Owl Clan
Dr. Kote & Lin A-Lul'Koy Lotah
48825 Sapaque Road
Bradley , CA 93426
(805) 472-9536
Chumash

LA City/County Native American Indian Commission
Ron Andrade, Director
3175 West 6th Street, Rm. 403
Los Angeles , CA 90020
(213) 351-5324
(213) 386-3995 FAX

Samuel H. Dunlap
P.O. Box 1391
Temecula , CA 92593
(909) 262-9351 (Cell)
(909) 693-9196 FAX
Gabrielino
Cahuilla
Luiseno

Owl Clan
Qun-tan Shup
48825 Sapaque Road
Bradley , CA 93426
(805) 472-9536
Chumash

Julie Lynn Tumamait
365 North Pole Ave
Ojai , CA 93023
jtumamait@hotmail.com
(805) 646-6214
Chumash

Ti'At Society
Cindi Alvitre
6602 Zelzah Avenue
Reseda , CA 91335
(714) 504-2468 Cell
Gabrielino

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH# 2005111054 - Vesting Tentative Tract No. 61553, Mulholland Drive / Mulholland Highway, City and County of Los Angeles.

Native American Contacts
Los Angeles County
December 1, 2005

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Administrator
4712 Admiralty Way, Suite 172 Gabrielino Tongva
Marina Del Rey , CA 90292
310-570-6567

Coastal Gabrieleno Diegueno
Jim Velasques
5776 42nd Street Gabrielino
Riverside , CA 92509 Kumeyaay
(909) 784-6660

DNA/Diane Napoleone and Associates
6997 Vista del Rincon Chumash
La Conchita 93001
, CA
dnaassociates@sbcglobal.net
(805) 643-7492 (Home)
(805) 689-8050 (Cell)

Gabrielino/Tongva Counci / Gabrielino Tongva Nation
Sam Dunlap, Tribal Secretary
501 Santa Monica Blvd., Suite 500 Gabrielino Tongva
Santa Monica , CA 90401-2415
(310) 587-2203
(310) 587-2281 Fax

Carol A. Pulido
15011 Lockwood Valley Rd. Chumash
Frazier Park , CA 93225
(661) 245-3081

Gabrielino Band of Mission Indians of CA
Ms. Susan Frank
PO Box 3021 Gabrielino
Beaumont , CA 92223
(951) 845-3606 Phone/Fax

Gabrieleno/Tongva Tribal Council
Anthony Morales, Chairperson
PO Box 693 Gabrielino Tongva
San Gabriel , CA 91778
(626) 286-1632
(626) 286-1262 Fax
(626) 286-1758 (Home)

Richard Angulo
1222 Potter Avenue Chumash
Thousand Oaks 91360
, CA
(805) 493-2863 (Work)
(805) 493-2163 Fax

Randy Guzman - Folkes
3044 East Street Chumash
Simi Valley , CA 93065-3929 Fernandeño
randyfolkes@sbcglobal.net Tataviam
Shoshone Paiute
(805) 579-9206 Yaqui
(805) 501-5279 (cell)

Gabrielino Tongva Indians of California Tribal Council
Robert Dorame, Tribal Chair/Cultural Resources
5450 Slauson, Ave, Suite 151 PMB Gabrielino Tongva
Culver City , CA 90230
gtongva@earthlink.net
562-761-6417 - voice
562-920-9449 - fax

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Native American Contacts
Los Angeles County
December 1, 2005

Gabrielino Tongva Indians of California Tribal Council
Mercedes Dorame, Tribal Administrator
20990 Las Flores Mesa Drive Gabrielino Tongva
Malibu , CA 90265
Pluto05@hotmail.com

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be monitored, too. Their solution, "A homeowners association would be reponsible for the maintenance of the open space,"(II-20), is not sufficient. Handing out a pamphlet on oak trees to anyone who buys a house won't do much unless they clearly understand that their homeowners' fee may later be assessed for damage to huge oaks done during initial construction.

MULLHOLLAND SCENIC PARKWAY SPECIFIC PLAN

The DEIR says it will request exceptions to the Mulholland Scenic Parkway Specific Plan regarding viewshed, height of homes, and retaining walls, but needs to be more specific on the actual nature of the requests. In addition, its pronouncements regarding architecture and design are misleading. For instance:

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In the opinion of the Santa Monica Mountains Conservancy, no exceptions to the Mulholland Scenic Parkway Specific Plan should be allowed. Only the amount of housing that could be constructed within its restrictions should go forward.

ARCHEOLOGICAL SURVEY

Although the DEIR does say that the project site is "archeologically sensitive" and that an archeologist needs to be present during topsoil grading, it doesn't say why. The reason is its proximity to a quite well-known prehistoric archeological site (CA-LAN-246), a large village dating from 1200-1400 or earlier . The main area of this site is located 100 yards south of the

intersection of Mulholland Drive and Mulholland Highway, and maps show it extending up to the project area. The main area was discovered during construction in 1963 and some excavation and study was done by UCLA. Regrettably, this main area was subsequently destroyed during further development in 1978.

Although nothing archeologically interesting was discovered by W & S Consultants on the property right now, they do note that portions of the area were "...covered by imported fill." (P.28) So they couldn't search everywhere. But an archival records search done by South Central Coastal Information Center does classify the area as containing the following: "...one archeological site (19-000246*) has been identified within a 1/8 mile radius of the project site. *This archeological site is located within the project site."* (my italics) Most of this ancient inhabitation, south of Mulholland, is already destroyed due to development. Its complete loss to to the same cause would not constitute a "less than significant" impact.

PIPELINES

According to the DEIR, since the Crimson oil line has been there since 1944, and the Union Oil line since 1956, there is little chance of any rupture due to construction. In our opinion, the very age of the lines suggests the opposite. Even if they don't run into it, any vibration may cause leakage in aging pipes. CEQA's study finds that a high pressure gas line runs adjacent to the project site on the northwest side of Mulholland Drive. This gasline is partially exposed. There is always the possibility of an accident during construction, and it's very near Louisville High School. The DEIR greatly minimizes the possibility of accidents with these oil and gas lines.

GRADING

Is it possible that grading may destabilize current homes? The DEIR does not believe that will happen. However, some homes bordering this lot suffered significant earthquake damage during the 1994 Northridge temblor, and the area may hold some surprises if the land is disturbed. A lot of it is fill.

FLAG LOTS

From the looks of the plan layout, four or five homes will, in effect, be flag lots. Councilman Zine just put forth a proposal to stop the subdivision of Walnut Acres properties into flag lots.

ALTERNATIVE TWO PROJECT

The developers' description of their Alternative Two is obviously something they're not interested in building, since they went out of their way to make it less attractive to area residents. They're using the excuse that current zoning demands the more negative aspects (see below), but it really doesn't make any sense. If it's twenty nine homes instead of thirty seven, basic logic will tell you it should be possible to come up with a plan that doesn't require:

- More points of access than their initial plan
- More retaining walls than their initial plan

standard industry procedures for excavating in the vicinity of pipelines. The analyses in the Draft EIR concluded that compliance with these standard procedures would be sufficient to reduce the hazards to a less-than-significant level and that there is nothing unique about the project site or the proposed project that would suggest that other extraordinary measures would be necessary (for further discussion see Draft EIR Section V.E.).

Comment No. 13-24:

Is it possible that grading may destabilize current homes? The DEIR does not believe that will happen. However, some homes bordering this lot suffered significant earthquake damage during the 1994 Northridge temblor, and the area may hold some surprises if the land is disturbed. A lot of it is fill.

Response:

According to the project's geotechnical report, the project site can be developed as proposed if the development is conducted in accordance with the report's recommendations. In contrast, the comment has not provided any data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the implication that the proposed project could cause strong ground shaking comparable to that experienced during the 1994 Northridge earthquake. Pursuant to CEQA Guidelines Section 15204(c), an effect is not considered significant in the absence of substantial evidence. Therefore, no further response is necessary.

Comment No. 13-25:

From the looks of the plan layout, four or five homes will, in effect, be flag lots. Councilman Zine just put forth a proposal to stop the subdivision of Walnut Acres properties into flag lots.

Response:

The proposed project does not feature flag lots. Flag lot are included in Alternative 2, however. Neither the Los Angeles Municipal Code, nor the Mulholland Scenic Parkway Specific Plan prohibits the creation of Flag lots.

Comment No. 13-26:

The developers' description of their Alternative Two is obviously something they're not interested in building, since they went out of their way to make it less attractive to area residents. They're using the excuse that current zoning demands the more negative aspects (see below), but it really doesn't make any sense. If it's twenty nine homes instead of thirty seven, basic logic will tell you it should be possible to come up with a plan that doesn't require:

- More points across than their initial plan
- More retaining walls than their initial plan

- AGAINST THE EXPRESSED VIEWS OF COUNCILMAN ZINE + THE NEIGHBORHOOD COUNCIL

Commenter No. 14 **Larry L. Eng Department of Fish and Game 4949 Viewridge Avenue San Diego, CA 92123, April 4, 2007**

Comment No. 14-1:

1. Habitat Preserve Area—The DEIR proposes to set aside 2.37 acres of undisturbed habitat (preserve area) of the project site to mitigate for losses to special status native vegetation on the project site including coastal sage scrub, purple needle grass and California black walnut trees.

a. Prior to project commencement, the preserve area proposed for mitigation for unavoidable losses to native trees and vegetative communities should be protected in perpetuity under a conservation easement dedicated to a local conservancy. An appropriate endowment fund should be established for the maintenance and management of the preserve area in perpetuity.

Response:

The project applicant does not propose to establish a conservation easement over the open space; nor does it propose to dedicate the open space. The open space will be maintained by the homeowners' association.

Comment No. 14-2:

b. The planting of native vegetation including oak trees and California black walnuts to mitigate for project impacts should be accomplished without incurring additional impacts to native vegetative communities on the project site. All mitigation plantings should be planted in areas that lend themselves to enhancement or restoration so that there is a net benefit to biological diversity on the project site. The Department recommends a mitigation ratio of at least 2:1 for all native trees to be removed from the site and a 1:1 ratio for any encroached upon oak trees that will likely suffer decline and/or death as determined by a oak tree specialist. Any impacted native trees within any Department jurisdiction may require higher mitigation ratios depending on the level of disturbance and diameter at breast height (dbh) or impacted limbs of the impacted oak.

Response:

Pursuant to Mitigation Measure D-6, found on page V.D-37 of the DEIR, replacement oaks will be provided at a 2:1 ratio with a minimum 36-inch box size, and any other native species trees (i.e. California Black Walnut and Mexican elderberry) will be replaced at a 2:1 ratio with a minimum 15 gallon size with individuals of the same tree type. Prior to the issuance of a grading permit the project applicant will submit a tree report and landscape plan prepared by tree expert as designated under City of Los Angeles Ordinance 177,404 for approvals by the Mulholland Scenic Corridor Specific Plan Design Review Board, the City of Los Angeles Planning Department and the Urban Forestry Division (formerly Street Tree Division) of the Los Angeles Bureau of Street Services. The landscape plan will incorporate the recommendations of the U.S. Department of Fish and Game to the extent feasible. In addition, in order to further reduce construction impacts and ensure their continued health and survival, all mature trees to be retained on site shall be examined by a qualified arborist prior to the start of construction,

- WHY CAN THIS REQUEST BY FISH + GAME NOT BE DONE?

The errors and omissions create a cumulative effect where the final EIR will have to become a different document that was currently presented in the DEIR format and prevent a comparable comment period as evidenced by this letter.

Response:

This comment does not identify the errors and omissions referenced, therefore a reasoned response is not possible. However, to the extent that the remaining portion of the letter identifies specific errors and omissions, responses to those comments may be found with Responses to Comment Nos. 15-5 through 15-48. Additions and Corrections to the Draft EIR, as a result of the comment letters, can be found in Section II of this Final EIR.

Comment No. 15-5:

As previously mentioned, I do not feel that a condominium projects is feasible and is certainly not desirable. This project would be completely out of character for the neighborhood and is in gross non-compliance with the Mulholland Scenic Corridor requirements.

The DEIR offers three alternatives, two of which are acceptable to me. My first preference would be for the land to be converted into a park. The area is sorely lacking in park space and the Santa Monica Mountains Conservancy is willing and capable of converting the land to a park setting. The second preference would be for the land to be left in its present state. The least preferable alternative is for a 29-house subdivision. Under that alternative, the housing is too dense for the area and would severely stress on the area's 70-year old infrastructure.

Response:

The first part of this comment expresses opinions about the proposed project, but does not state a specific concern or question regarding the adequacy of the analysis contained in the Draft EIR. Therefore, a response is not required pursuant to CEQA. However, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

The second part of the comment indicates "the Santa Monica Mountains Conservancy is willing and capable of converting the land to a park setting." Presumably this is a reference to the project site. The type of park space that is deficient in the Woodland Hill/West Valley area is active recreational space – facilities for individual and team sports. By contrast, there is no deficiency in passive recreational open space – there are approximately 153,250 acres of mostly passive park open space in the nearby Santa Monica Mountains National Recreation Area. However, the project site is not suitable for active recreation uses, such as football, soccer and baseball fields. The development of those facilities would have greater impacts than the proposed project, as most of the trees would have to be removed to accommodate such uses. Lastly, the Santa Monica Mountains Conservancy has not made an offer to acquire the project site and in the Conservancy's comment letters (see Comment Letter No. 9) there is no mention of acquiring the project site.

- WE'RE NOT TALKING ABOUT WOODLAND HILLS / WEST VALLEY (IE - CALABASAS) IT'S WOODLAND HILLS. CALABASAS HAS NO BEARING ON IT.

Comment No. 15-25:

Can a blue line stream also indicate below surface water flow?

Response:

See Responses to Comment Nos. 5-9 and 15-18.

Comment No. 15-26:

As the DEIR is denying the importance of the blue line stream, they refer to it and attempt to mitigate its impact on the property. For example, there is mention of the blue line stream being canalized "The blue line stream has since been modified on-site and off-site such that northerly flows are now intercepted under Mulholland Drive and conveyed into a subdrain and longer flow onto the project site." (Page V, D-28) However, there is no substantiation of this claim in the report.

- What documentation supports this claim?
- Where is this canalization?
- Who was authorized to do this canalization?
- When was this done?
- If it were done, the California State Department of Fish and Game would have had to permit this diversion, and, if so, where is the formal record of this permit?
- Was there a public notice of the work and is there a public record?
- If so, why is this not in the DEIR?
- Is this really a storm drain for Mullholland [sic] Highway and not the "blue line" stream?

Response:

See Responses to Comment Nos. 15-18: to 15-24.

Comment No. 15–27:

To further diminish the importance of the blue line stream, the argument was made that map delineating the "blue line" stream was 40 years old and suggested that the maps are not currently applicable.

- Is this the Christopher Joseph and Associates position?
- If so, are they going to make this a formal part of the EIR and so state this fact?

-THESE POINTS ARE NOT ADEQUATELY ANSWERED IN 15-18 → 15-24

driveway. The Woodland Hills Warner Center Neighborhood Council is working to eliminating the creation of any new flag lots, and the project should eliminate flag lots entirely.

Response:

Please refer to Response to Comment No. 5-12.

Comment No. 18-11:

The DEIR downplays the occurrence of important animal and plant species on the project site, but both CEQA and the Santa Monica Mountains Conservancy agree that many sensitive species may be there, whether they were spotted recently or not. The project site is in close proximity to large expanses of relatively undisturbed open space located to the south of Mulholland Drive, and the California Natural Diversity Data Base list three sensitive wildlife species, five sensitive plant species, and two sensitive plant communities for the Canoga Park USGS Topographic Quad Sheet, where the project is located. The SMMC, says, "Thirty-two special status species of wildlife have been recorded, or have the potential to occur, in the vicinity of the project site..." In addition, the SMMC considers the Girard Reservoir to be wet lands. This wet land is adjacent to the property.

Response:

The DEIR adequately acknowledged the number of sensitive species known from the project vicinity (Table V.D-3) and analyzed each species for its potential to occur on the project site given the site's amount, quality and type of habitat(s). In addition, Fish and Game did not raise any concerns regarding the adequacy of the sensitive species analysis impacts in its DEIR comment letter. Based on a recent assessment of the DWP property (Girard Reservoir) by CAJA biologists in June 2007, it was determined that the reservoir contains wetland habitat; however, this wetland would not be impacted by the proposed project as the site plan would provide a minimum buffer of approximately 100 feet from the reservoir's edge. Based on field observations and conversations with DWP staff, the only existing source of water for the Girard Reservoir and the wetland habitat within it is from direct precipitation or surface runoff from the surrounding earthen berms; there is no hydrologic connection between the project site and the reservoir, as it is physically separated by the 10- to 15-foot tall earthen berm surrounding the reservoir. The only other activities resulting from the project that could affect the wetland in the Girard Reservoir is the fuel modification activities; however, these activities would only result in the trimming of trees in this area, which would not result in a significant impact to the wetland. Therefore, the proposed project will not result in significant impacts to the wetland habitat within the Girard Reservoir. Also, please refer to Response to Comment No. 5-13.

This response is also applicable to Alternative 2.

Comment No. 18-12:

The DEIR does admit to evidence on the site of mammalian, reptilian, and avian Federal and/or State Species of Concern. Per Fish and Game's regulations, they have a plan to work around the approximately

- I DON'T FEEL THEY'VE PROVED THERE'S NO HYDROLOGIC CONNECTION TO AN ACKNOWLEDGED WETLAND.

Commenter No. 20 **Adel Hagekhalil Wastewater Engineering Services Division, Bureau of Sanitation, April 6, 2007**

Comment No. 20-1:

This is in response to your February 20, 2007 letter requesting wastewater service information for the proposed project. The Bureau of Sanitation, Wastewater Engineering Services Division (WESD), has conducted a preliminary evaluation of the potential impacts to the wastewater system for the proposed project.

Projected Wastewater Discharges for the Proposed Project

Type Description	Average Daily Flow per Type Description (GPD/UNIT)	Proposed No. of Units	Average Daily Flow (GPD)
Existing			
Single Family Dwelling	330 GPD/DU	1 DU	(330)
Proposed			
Single Family Dwelling	330 GPD/DU	13 DU	4,290
Single Family Dwelling	370 GPD/DU	24 DU	8,880
Total			13,170

SEWER AVAILABILITY

The sewer infrastructure in the vicinity of the proposed project includes an existing 8-inch pipe on San Feliciano Dr. The 8-inch line feeds into a 12-inch line on De La Osa St, which then continues into Topanga Canyon Blvd. The 12-inch line then feeds into a 15-inch line before discharging into an 18-inch line. The current flow level (d/D) in the 8-inch and 12-inch lines cannot be determined at this time as gauging is needed for these lines. Based on our gauging information, the current flow level (d/D) in the 15-inch and 18-inch are approximately 33% and 40% full, respectively. The design capacities at d/D of 50% for the 8-inch line is 575,595 Gallons per Day, for the 12-inch line is 641,424 Gallons per Day, for the 15-inch line is 2.4 million Gallons per Day, and for the 18-inch line is 3.5 million Gallons per Day.

Based on the estimate flows, it appears the sewer system might be able to accommodate the total flow for your proposed project. Further detailed gauging and evaluation will be needed as part of the permit process to identify a sewer connection point. If the local sewer line, the 8-inch lines, to the 18-inch sewer line, has insufficient capacity then the developer will be required to build a secondary line to the nearest

– WATER PRESSURE, SEWERS + STORM DRAINAGE PROBLEMS ARE NOT DS HOMES' PROBLEM, BUT THEY WILL BE THE COMMUNITY'S.

style housing or the larger average square footage of land area per home in the immediate area is a determination reserved for the Design Review Board and the Planning Director.

The proposed project would preserve 160 mature trees, including 144 oaks, and remove a total of 37 trees including nine (9) oaks, and nine (9) black walnuts on the project site. Section 46.00 et seq. of the Los Angeles Municipal Code (LAMC), and Los Angeles City Ordinance No. 177404 set for the regulations for the preservation of certain protected species trees in the City. In addition, the proposed project site is within the Mulholland Scenic Parkway Specific Plan (MSPSP) and is thus subject to the regulations and requirements of the MSPSP. The MSPSP calls for the preservation of as many mature trees on a project site as possible and requires that trees that are removed be replaced at a 2:1 ratio for oaks and native trees and a 1:1 ration for non-native trees.

The potential traffic impacts associated with development of the proposed project were addressed in Section V.H, Traffic/Transportation/Parking of the Draft EIR. As identified on page V.H-1 of the Draft EIR, Section V.H summarizes the information provided in the traffic study prepared for the proposed project entitled Traffic Analysis for Proposed Residential Development at 22255 Mulholland Drive, Los Angeles (the "study"), by Crain & Associates in November 2004. The full Traffic Analysis, which is incorporated by reference in Section V.H of the Draft EIR, is provided as Technical Appendix J to Draft EIR.

The elementary school is located approximately one and a half miles northwest of the project site. There are many residential uses within closer proximity to the school. Children walking to and from school on the sidewalks would not be put at any additional risk by the addition of 37 homes in an area that is heavily developed with residential uses

Comment No. 27-2:

We are living in a historically single family area under the old town name of Girard. People came to this area for the open space and country style living. This has all but vanished. Please help retain what little is left of our original oak woodland, which includes a stream bed, in the midst of a residential neighborhood that has been left with very little space to call its own.

Response:

The first part of this comment expresses opinions about the dominant lifestyle in this area, but does not state a specific concern or question regarding the adequacy of the analysis contained in the Draft EIR. Therefore, a response is not required pursuant to CEQA. However the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

The proposed project would preserve 144 out of 153 Coast Live Oak present on the project site. A minimum of two oak trees are to be planted for each one removed, and the project applicant shall post a cash bond or other assurances acceptable to the Bureau of Engineering in consultation with the Urban Forestry Division and the Advisory Agency guaranteeing the survival of trees required to be maintained, replaced or relocated in such a fashion as to assure the existence of continuously living trees for a

- WOODLAND HILLS ELEMENTARY IS NOT 1½ MILES N.W.

those alternatives necessary to permit a reasoned choice. Of those alternatives, the EIR need only examine in detail the ones that the lead agency determines could feasibly attain the most basic objectives of the project. The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public opinion and informed decision making. CEQA Guidelines § 15126.6, subd. (b) 46. The DEIR in question sets forth alternatives including the "no-project" alternative, the "single-family subdivision" alternative and the "park" alternative. According to CEQA Guidelines § 15126.6, subd. (c) 49, the purpose of describing and analyzing a no-project alternative is to allow decision-makers to compare the impacts of approving the project with the impacts of not approving the project. The analysis is not a baseline for determining whether the proposed project's environmental impacts may be significant. Obviously, the no-project alternative fails to meet any project alternatives. The park alternative also fails to meet any project objectives *and* there has been no commitment from LADWP to release the reservoir property for parks purposes and there has been no clear offer from any public agency or private organization to purchase the site for park purposes. Therefore, the selection of single family subdivision alternative, developed while incorporating all appropriate mitigation measures, is proper under the CEQA requirements.

Comment No. 36-29:

Despite this, the DEIR does not disclose or evaluate that only four units – Units 6, 7, 30 and 37 of the condominium project – could be deleted to save the protected trees that the developer wishes to remove. Such mitigation is feasible. Also the DEIR should study elimination of tree removal for road placement and propose that internal streets go around eliciting trees. All of this is contemplated and appropriate pursuant to the MSPSP Section 5.B.4 and Guideline 12. This should be disclosed and analyzed in a recirculated DEIR. Further, more specificity should be provided with regard to the replacement trees and additional mitigation can include trees of same trunk size, canopy and age. Mitigation measures that are incomplete, as here, are inadequate. *Federation of Hillside Canyon Association v. City of Los Angeles,* 83 Cal.App.4th at 1260.

Response:

Draft EIR Figure V.B-6 clearly indicates the locations of all trees that would be removed due to the proposed project. Consequently, the Draft EIR discloses which units impact which trees. Nevertheless, the comment erroneously states that the deletion of Units 6, 7, 30 and 37 would save "the protected trees that the developer wishes to remove." In fact, a cursory glance at Draft EIR Figure V.B-6 reveals that of the nine Southern California Black Walnuts to be removed only one tree removal (No. 62) is directly due to one of the four units identified by the comment (i.e., No. 6). All of the other Southern California Black Walnuts are removed as a result of slope grading. Similarly, of the nine Oak Trees to be removed only one tree (No. 58) is directly due to one of the four units identified by the comment (i.e., No. 5). All of the other Oak Trees are removed as a result of road construction or slope grading.

CEQA does not require the redesign of a project to mitigate less-than-significant impacts. As discussed in the Draft EIR (page V.D-30) impacts to Southern California Black Walnuts are already mitigated to a less-than-significant level by implementation of Mitigation Measure D-1. Similarly, impacts to Oak Trees are already mitigated to a less-than-significant level by implementation of Mitigation Measure D-6. Also,

– THERE IS A PRECEDENT FOR THIS IN WOODLAND HILLS – THE NEW LIBRARY PARKING LOT WAS BUILT AROUND THE TREES.

regard. See Response to Comment No. 5-7 above. Regarding the alleged purchase of the Girard Reservoir by SMMRC, please see Response to Comment No. 11-8 above. There is no reliable evidence to suggest such a purchase. The development of 37 homes is in fact consistent with the adjacent zoning designations. See Response to Comment No. 36-7 above. Finally, the provisions of the Los Angeles Municipal Code, and the Project's conformance with those provisions, are distinct from the question of whether a project will result in significant environmental effects.

Comment No. 36-27:

IV. The Description, Findings and Mitigation of Aesthetic and Tree Impacts are Not Supported by Substantial Evidence

The Horticultural Tree survey referenced in the DEIR indicates that there are two species of trees that are protected: the Southern California Black Walnut and the Coastal Live Oak. The DEIR proposes that nine (9) Walnuts and nine (9) Oaks be removed. (Page II-3-4.) The developer planned removal of nine (9) of the eleven (11) existing Walnuts and the two largest and oldest Oaks on the property. The Report indicates the canopy size of the trees but there is no visual reference to show the impact of the tree canopies on the proposed houses or the effect of the construction on the irrigation lines. Trunk sizes also should be identified. Moreover, the site maps suggest that nearly all of these trees can be saved if the developer makes minor changes to the proposed project and reduces the number of units.

Response:

The tree report ("Report") was prepared by tree expert as designated under City of Los Angeles Ordinance 177,404 in accordance with presently accepted industry procedures as outlined by the International Society of Arboriculture.[6] The Report, provided as Appendix G-2 to the DEIR, includes an inventory of trees on the project site as to their specie, health and aesthetic condition. The Report further includes measurements of each tree's trunk (expressed as diameter at breast height (DBH)) and canopy. All of this information can be found on the Tree Evaluation (sheets 1 through 20) and Tree Canopy Measurements (19 sheets) field notes included with the Report. In addition, the Report discusses the potential impacts to trees, including which trees would require removal, which would remain, and a disclosure concerning the potential for encroachment of specific trees during construction, along with recommended measures to protect and preserve these trees during construction. These recommendations have been incorporated into the DEIR as Mitigation Measures.

With respect to the criticism that the Draft EIR does not provide a visual reference to show the impact of the tree canopies on the proposed houses, CEQA does not require a Draft EIR to provide every conceivable plan and view. According to CEQA Guidelines Section 15204(a):

SEE ATTACHED - MSPSP HAS A POSITION ON "DISTINCTIVE" TREES

[6] *International Society of Arboriculture, Tree Ordinance Guidelines, http://www.isa-arbor.com/publications/tordinance.aspx accessed 3/21/07.*

- DOES NOT RESPOND SPECIFICALLY TO REMOVAL OF LARGEST & OLDEST OAKS, OR 9 OF 11 WALNUTS.

SECTION 4. LANDSCAPE.

GOAL 3: PRESERVE AND COMPLEMENT THE EXISTING NATIVE VEGETATION AND NATURAL HILLSIDE APPEARANCE.

Objective 3.1. *Protect significant existing landscape features.*

❑ **Guideline 53:** **Tree survey.** All existing oak trees and other significant native and non-native trees should be identified on the project landscape planting plan.

✍ **Arborist's Report.** A report on oak trees and other native trees on the project site prepared by a certified arborist may be required if any such trees are proposed to be removed or potentially impacted.

❑ **Guideline 54:** **Protection of native and/or significant trees.** Existing native trees and distinctive or significant non-native trees located on the project site should be protected from destruction or damage, to the greatest extent possible. Actual or potential destruction or damage to native trees may be adequate justification for recommending disapproval of a project application.

❑ **Guideline 55:** **Replacement of native trees.** If the loss of any significant native trees is determined unavoidable, the Specific Plan requires that they be replaced by new trees of the same species at a ratio of two-to-one. Additional replacement trees may be recommended to mitigate the loss of native trees.

With respect to setbacks from public parkland, since the LADWP property will remain under LADWP ownership for possible future reuse as a reservoir, it is not considered public parkland. Therefore, a 200-foot setback from the DWP property is not required. See Response to Comment No. 5-5.

Whether either the proposed project or Alternative 2 would be compatible with such community characteristics as the predominant single-story ranch style housing and the larger average square footage of land area per home (i.e., the Specific Plan Design Guideline 50), will ultimately be determined by the Design Review Board and the Planning Director. However, the proposed project's compatibility with community character is evaluated in Section V.B (Aesthetics) of the Draft EIR. The compatibility of Alternative 2 with community character is evaluated in Section VII. The evaluation concludes that since the proposed development would affect the existing visual character or quality of the project site, its impact with respect to existing visual character is potentially significant. However, with the implementation of the Mitigation Measures B-1 through B-18 and Project Enhancements B-19 through B-25, project impacts with respect to visual character would be reduced to a less-than-significant level. The same mitigation measures would also be applicable to Alternative 2 and would similarly mitigate the Alternative's impacts.

With respect to Guideline 50, see Response to Comment 5-3.

Comment No. 41-4:

The point is that no attempt has been made to suggest an alternative which is in compliance with governing land use requirements and guidelines. The burden, of course, is on the developer. Without a detailed comparison of what can be built under existing regulations and guidelines, it does not seem possible that any exceptions, exemptions, or adjustments could be found to be justified or would be in the public interest (the public interest being defined by those same land use regulations and guidelines from which the developer seeks exceptions, exemptions, and adjustments). Thus the submission of a report discussing only two development possibilities both of which are substantially out of compliance, while failing to discuss any development alternative which is in compliance, renders that report fatally efficient under CEQA (California Environmental Quality Act).

Response:

As stated in Section 15126.6(a) of the CEQA Guidelines, an EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparable merits of the alternatives. However, an EIR need not consider every conceivable alternative to a project. The Draft EIR provides a range of potential alternatives to the proposed project which includes those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects.

Moreover, the commenter's suggested alternative would impose significant restrictions on the development of the site. Specifically, the lot size and grading restrictions alone would result in a project that does not allow for a sufficient number of residential units to meet the project's most fundamental housing supply objectives. For similar reasons, the proposed alternative would not be economically

- THE FIRST TIME THEY'VE ADDRESSED THE "COMPARATIVE LOT SIZE" ISSUE, & THEN NOT ADDRESSED IT.

Objective 2.3: *Ensure projects are compatible with the immediate surrounding neighborhood.*

❑ **Guideline 50:** **Neighborhood Compatibility.** The size (total square footage, including garage, and height), appearance, color and setback of existing homes, as well as the grading and landscaping of the lots on which they are constructed, will be considered for purposes of project compatibility with the existing neighborhood.

✍ **Building Footprint Radius Map.** The applicant needs to provide a radius map showing lot lines, street names, the building footprints and the square footages of the closest ten (10) homes (plus the proposed project) surrounding the project site, or all homes within a 100-foot radius, whichever results in the greater number of existing homes being shown (see Figure 7).

With respect to setbacks from public parkland, since the LADWP property will remain under LADWP ownership for possible future reuse as a reservoir, it is not considered public parkland. Therefore, a 200-foot setback from the DWP property is not required. See Response to Comment No. 5-5.

Whether either the proposed project or Alternative 2 would be compatible with such community characteristics as the predominant single-story ranch style housing and the larger average square footage of land area per home (i.e., the Specific Plan Design Guideline 50), will ultimately be determined by the Design Review Board and the Planning Director. However, the proposed project's compatibility with community character is evaluated in Section V.B (Aesthetics) of the Draft EIR. The compatibility of Alternative 2 with community character is evaluated in Section VII. The evaluation concludes that since the proposed development would affect the existing visual character or quality of the project site, its impact with respect to existing visual character is potentially significant. However, with the implementation of the Mitigation Measures B-1 through B-18 and Project Enhancements B-19 through B-25, project impacts with respect to visual character would be reduced to a less-than-significant level. The same mitigation measures would also be applicable to Alternative 2 and would similarly mitigate the Alternative's impacts.

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Response:

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Moreover, the commenter's suggested alternative would impose significant restrictions on the development of the site. Specifically, the lot size and grading restrictions alone would result in a project that does not allow for a sufficient number of residential units to meet the project's most fundamental housing supply objectives. For similar reasons, the proposed alternative would not be economically

- THEIR GOAL: ECONOMIC FEASIBILITY. PERHAPS DONATING THE LAND WOULD BE AN ECONOMICALLY FEASIBLE ALTERNATIVE.

feasible for the project proponent. While the proposed restrictions on retaining wall heights may lessen aesthetic impacts, it would militate against the use of the walls as a means of avoiding the use of manufactured slopes. The commenter's proposed alternative therefore: (1) would not necessarily substantially lessen the project impacts; (2) is not economically feasible; and (3) does not advance the project's most basic objectives. CEQA does not require analysis of alternatives under such circumstances.

Alternative 2 – No Zone Change, is closest to the Commenter's proposed alternative. Alternative 2 is consistent with project site's existing zoning of R-1 (5,000 square foot minimum lot size), subdividing the 6.19 acre project site into 29 single-family lots. Alternative 2 is also consistent with the site's Low Residential land use designation established by the Canoga Park-Winnetka-Woodland Hills-West Hills Community Plan Area. Both the project site's land use and zoning designations are consistent with surrounding residential uses. Therefore, Alternative 2 is consistent with the surrounding neighborhood. Further, based on analysis in the Draft EIR, Alternative 2 can be found to be consistent with the applicable policies of the Community Plan and with approval of the discretionary actions, would not conflict with the Mulholland Scenic Parkway Specific Plan. With regard to the retaining walls proposed, the retaining wall configuration in the preferred alternative and Alternative 2 is deemed necessary to avoid more invasive grading. (See DEIR at p. V.B-14 – 15.) That is because retainer walls are a substituted for manufactured slopes, and therefore can be useful in reducing the grading footprint for the project. The nature and content of the CCRs for the project are too early to consider for the purpose of this document; CEQA requires review as early.

Alternative 2 would require the removal of 41 trees from the project site, including a total of 12 trees on four flag lots: Nos. 2, 6, 8 and 15. Flag lot No. 2 would remove two (2) California pepper trees; flag lot No. 6 would remove one (1) King Palm, and two (2) Southern California Black Walnut Trees; flag lot No. 8 would remove one (1) Coast Live Oak and one (1) Southern California Black Walnut; and, flag lot No. 15 would remove five (5) Southern California Black Walnut trees. Just as the proposed project would, Alternative 2 would also be required to comply with the City's Protected Tree Ordinance and the Mulholland Scenic Parkway Specific Plan protected tree requirements. Compliance with these requirements is considered sufficient to mitigate the impacts of tree removals. Therefore, both the proposed project and Alternative 2 would reduce impacts to trees to less-than-significant levels. As discussed above, Section 15126.6(a) of the CEQA Guidelines, requires an EIR to describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project. However, neither the proposed project nor Alternative 2 would have significant tree-related impacts and, therefore, additional alternatives to reduce tree impacts are not required by CEQA.

Comment No. 41 -5:

Quoting from section 15126.6(a) of the CEQA guidelines, the draft Report acknowledges that an EIR "must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation." See page VII01 of the draft Report. The draft Report also states that '[n[o alternatives that were considered were subsequently rejected as infeasible." See page VII-3. Thus

feasible for the project proponent. While the proposed restrictions on retaining wall heights may lessen aesthetic impacts, it would militate against the use of the walls as a means of avoiding the use of manufactured slopes. The commenter's proposed alternative therefore: (1) would not necessarily substantially lessen the project impacts; (2) is not economically feasible; and (3) does not advance the project's most basic objectives. CEQA does not require analysis of alternatives under such circumstances.

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Comment No. 41 -5:

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– THEY ARE OVERSTEPPING HERE. THEY'VE STATED THIS ON SEVERAL OCCASIONS + I'M SURE THE LETTER WRITERS WOULD NOT AGREE.

In reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.

Comment No. 45-5

On page V.B-21 the DEIR asks the question:

"Would the proposed project substantially degrade the existing visual character or quality of the site and its surroundings"

And answers:

Because the assessment of aesthetic impacts involves subjective judgments, there is always the possibility of a difference of opinion regarding the determination whether a proposed change in the visual environment constitutes a significant impact. While some may consider the introduction of a residential development into this oak woodland as a significant intrusion under any circumstances, others may consider the proposed project to be an attractive addition to the community and desire to purchase homes there. Nevertheless, for the purposes of this analysis, since the proposed development would affect the existing visual character or quality of the project site, its impact with respect to existing visual character is considered potentially significant.

By their own admission this project *will* aesthetically degrade the neighborhood.

We can't imagine putting large 2-story structures on such small lots without there being a distasteful visual impact. There will not be much room for yards or setbacks, just building after building with only 10 feet between most of them. This will indeed look like a "giant metropolis".

Response:

As previously discussed, the proposed project's compatibility with community character is evaluated in Section V.B (Aesthetics) of the Draft EIR. The evaluation concludes that since the proposed development would affect the existing visual character or quality of the project site, its impact with respect to existing visual character would be potentially significant. However, with the implementation of the Mitigation Measures B-1 through B-18 and Project Enhancements B-19 through B-25, project impacts

-DELIBERATELY MISUNDERSTANDING THE COMMENT, IN AN EFFORT NOT TO ANSWER IT, BY REFERRING TO "CONDO" LOTS.

with respect to visual character would be reduced to a less-than-significant level. The same mitigation measures would also be applicable to Alternative 2 and would similarly mitigate the Alternative's impacts.

Lastly, it should be noted that the comment refers to the analysis of the proposed project (i.e. page V.B-21); however, the comment also mentions small lots. The proposed project is a condominium development and consists of only two lots; individual home sites are not located on separate lots. In contrast, Alternative 2 is a conventional single-family subdivision with individual lots for each home.

Comment No. 45-6

As is illustrated on the map, FIGURE VII-1 in the alternative 2 Site Plan, most of the houses have accesses onto San Feliciano Drive. Only 9 access onto Mulholland Drive. This is unacceptable to the entire neighborhood. There is already too much traffic on San Feliciano Drive, and too many children being dropped off at the elementary school on weekdays. This is already a major traffic problem.

Question: Why have you chosen this access theme? Could you not route all access roads to Mulholland Drive, which would help in controlling traffic on San Feliciano Drive?

Question: What exact dates was the traffic observed by the developer? Was this done at the hours of drop-off and pick-up on school days?

Response:

The Los Angeles Fire Department requires two access points to the site and the MSPSP discourages access from Mulholland Drive. Depending upon destination, trips from all project houses may use either site exit.

The traffic study for the proposed project is provided in Technical Appendix J-1 of the Draft EIR. This technical appendix contains the count sheets including the date of each new traffic count conducted for the study. The new counts were all conducted on non-holiday weekdays during October 2004. The traffic impact analysis, as summarized in Table V.H-10 (Section V.H) of the Draft EIR, concluded that all proposed project traffic impacts would be less than 1 percent. Therefore, changes to the cumulative level of traffic would not result in any project traffic impacts being considered significant. The traffic study for Alternative 2 is provided in Appendix J-2 of the Draft EIR. As a smaller project it would have even less impact than the proposed project.

Comment No. 45-7

The community would most likely agree that a much better solution to this use of land would be to build 12 or so large beautiful houses on large beautiful lots (a few of which could be 2-story) as per Guideline 50 in the MSPSP, and workaround the existing trees, not having to remove the Southern California Black Walnuts and the Costal Live Oaks as illustrated in the DEIR, Table VII-2 Alternative 2 Tree Removals. This is also an absolutely unacceptable plan.

- EVEN THOUGH INDIVIDUAL LOTS IN ALTERNATIVE 2 ARE REFERRED TO, THE COMMENT IS NOT ADDRESSED