

RESOLUTION NO. 2007-6919

A RESOLUTION OF THE CITY OF SAN MARCOS
CITY COUNCIL CERTIFYING THE FINAL
ENVIRONMENTAL IMPACT REPORT NO: 05-41
AND ADOPTING A STATEMENT OF OVERRIDING
CONSIDERATIONS.

Case No. EIR 05-41

City of San Marcos "San Marcos Creek Specific Plan"

WHEREAS, the City of San Marcos initiated the San Marcos Creek Specific Plan on August 23, 2005 with the establishment of the San Marcos Creek Task Force, requesting approval of a General Plan Amendment, Rezone and adoption of a Specific Plan for the installation of flood control improvements of San Marcos Creek and related roadway improvements and development of up to 1,265,000 s.f. of retail, 589,000 s.f. of office and up to 2,300 dwelling units on approximately 217 acres located south of San Marcos Blvd. between Discovery Street and Grand Avenue, east of Discovery Street between San Marcos Blvd. and Discovery Street, north of Discovery Street between Discovery Street and Bent Avenue, west of Grand Avenue between San Marcos Blvd. and Discovery Street, and that portion of San Marcos Creek between Grand Avenue and just east of SR 78.

WHEREAS, the City of San Marcos is the lead agency for the preparation and consideration of environmental documents for the Project, as defined by the California Environmental Quality Act located at Public Resources Code Sections 21000-21178.1 ("CEQA") and the California Guidelines for the Implementation of CEQA located at Cal. Code of Regulations, Title 14, Sections 15000-15387 ("State CEQA Guidelines"); and

WHEREAS, the Project is subject to compliance with CEQA, the State CEQA Guidelines and the City of San Marcos Environmental Review Ordinance, Municipal Code, Title 18, Sections 18.04.010-18.04.350 ("Local CEQA Guidelines) since the project requires approval of a discretionary action by the City of San Marcos including a General Plan Amendment, Rezone, and adoption of a Specific Plan; and

WHEREAS, the City of San Marcos has prepared, or caused to be prepared, a Draft EIR; and

WHEREAS, the Draft EIR was available for public and agency review and comment from April 13, 2007 to May 29, 2007; and

WHEREAS, the City of San Marcos has consulted with public agencies required by CEQA and has provided an opportunity for review and comment on the Draft EIR as required by the provisions of CEQA and the State CEQA Guidelines; and

WHEREAS, the City of San Marcos has evaluated the comments received from public agencies and persons who reviewed the Draft EIR and has prepared responses to the comments received during the public comment period; and

WHEREAS, said comments and recommendations received on the Draft EIR, either verbatim or in summary, a list of persons, organizations and public agencies commenting on the Draft EIR, and responses of the City of San Marcos to environmental points raised in the review and consultation process have been attached to and made part of the Draft EIR State Clearinghouse No. 2006121080 in the form the Final EIR (No. 05-41, for the Project, as required by Section 15132 of the State CEQA Guidelines; and

WHEREAS, the City of San Marcos desires and intends to use the Final EIR and the documents incorporated by reference therein, as the environmental documentation required by CEQA and the State and Local CEQA Guidelines for each of the above-referenced discretionary actions to the extent authorized by law; and

WHEREAS, the Final EIR evaluates the possible environmental impacts of the proposed General Plan Amendment, Rezone, and Specific Plan; and

WHEREAS, the Planning Commission is responsible for reviewing the Final EIR and making a recommendation to the City Council of the City of San Marcos as to whether such Final EIR has been prepared in compliance with all applicable requirements, and

WHEREAS, the Planning Commission did recommend approval to the City Council; and

WHEREAS, the required public hearing held on July 24, 2007, was duly advertised and held in the manner prescribed by law, and

NOW, THEREFORE, the City Council resolves as follows:

- A. The foregoing recitals are true and correct.
- B. The Final EIR indicates that the Project would have direct and/or cumulative impacts in the following areas, which can be reduced to less than significant levels if all mitigation measures recommended in the Final EIR are implemented for the San Marcos Creek Specific Plan.
 - (1) construction-related PM₁₀ and ROG impacts;
 - (2) biological resources impacts including permanent and temporary jurisdictional wetlands and non-wetland waters of the U.S impacts, impacts to the sensitive habitat of coyote brush and isocoma scrub, impacts to sensitive plants including southern tarplant and southwestern spiny rush; and impact to migratory birds
 - (3) on-site cultural resources including CA-SDI-17423, and unidentified archaeological sites, impact to a CRHR-eligible historic residential structure (918 Discovery Street), and unknown paleontological resources
 - (4) hazardous materials in the levee fill material, the presence of leaking underground storage tanks on the project site, and

the potential for asbestos-containing materials and lead-based paint;

(5) hydrology and water quality including public stormwater drainage system, on- and off-site sedimentation, 100-year floodplain, and flood control design and levee safety;

(6) land use inconsistency between proposed uses on the project site and the uses currently allowed under the General Plan and Zoning Ordinance, as well as inconsistency between the proposed right-of-way of two roadway segments

(7) short-term construction noise, increased on- and off-site vehicular noise, potential impacts from adjacent residential and commercial uses

(8) short-term construction traffic and potential to exacerbate existing unacceptable level of service at multiple project intersections and roadway segments, and

(9) increase in the need for wastewater infrastructure

- C. The Final EIR indicates that Project will have the following significant, direct and/or cumulative unmitigable impacts on the environment in the following areas, even after all feasible mitigation measures recommended in the Final EIR are implemented and as such have recommended adoption of the Findings of Fact and Statement of Overriding Consideration for the San Marcos Creek Specific Plan.

(1) project-level nitrogen oxides (NO_x) (construction-related), and PM₁₀, ROG and NO_x emissions due to project operation mobile sources emissions.

- D. The Final EIR reflects the independent judgment of the City of San Marcos, as required by Section 21082.1(c)(3) of CEQA; and
- E. The Final EIR has been prepared and completed in compliance with CEQA and all applicable requirements, as required by Section 15090 of the State CEQA Guidelines; therefore, the San Marcos City Council certifies the Final EIR.

PASSED AND ADOPTED by the City Council of the City of San Marcos, State of California, at a regular meeting thereof, this 24th day of July, 2007, by the following vote:

AYES: COUNCILMEMBERS: JONES, MARTIN, ORLANDO, PRESTON,
DESMOND

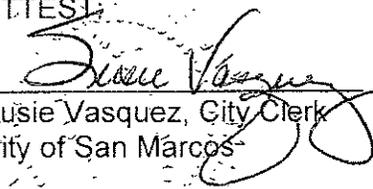
NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE



James M. Desmond, Mayor
City of San Marcos

ATTEST:



Susie Vasquez, City Clerk
City of San Marcos

**FINDINGS OF FACT AND
STATEMENT OF OVERRIDING CONSIDERATIONS
FOR THE SAN MARCOS CREEK SPECIFIC PLAN
AND FLOODWAY IMPROVEMENT PROJECT**

(Final EIR 05-41)
(State Clearinghouse (SCH) No. 2006121080)

1.0 DESCRIPTION OF CEQA FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS

1.1 California Environmental Quality Act

The California Environmental Quality Act (Public Resources Code Sections 21000-21178.1) ("CEQA") and the State CEQA Guidelines (Cal. Code of Regulations, Title 14, Sections 15000-15387) require that specific findings be made if a lead agency decides to approve a project which will have significant impacts:

[N]o public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant environmental effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

- (a) The public agency makes one or more of the following findings with respect to each significant effect:
 - (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
- (b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

See Cal. Pub. Res. Code § 21081. The State CEQA Guidelines contain similar provisions. Cal. Code Regs. tit. 14, § 15091.

The Final Environmental Impact Report (FEIR) for San Marcos Creek Specific Plan and Floodway Improvements (FEIR No. 05-41, State Clearinghouse No. 2006121080) ("FEIR 05-41") which is incorporated by reference as if fully set forth herein, identifies significant or potentially significant environmental impacts which, prior to mitigation, may occur as a result of the Project and regulatory permits or other minor permits as listed in Section 2.4 of FEIR 05-41 (collectively, the "Project"). Thus, in accordance with the provisions of CEQA, the State CEQA Guidelines, and the City of San Marcos ("City") Environmental Protection Ordinance (City of San Marcos Municipal Code, Title 18, Sections 18.04.010-18.04.350) ("Local CEQA Guidelines"), the City hereby adopts these Findings.

The CEQA Guidelines also state that the decision-maker must balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. Cal. Code Regs. tit. 14, § 15093(a). The City Council has carefully considered the benefits of the Project. Final EIR 05-41 identifies significant environmental effects which will not be mitigated to below a level of significance and which will be allowed to occur as a result of Project approval. Therefore, the City Council hereby adopts the Statement of Overriding Considerations contained in this document, which states the specific reasons why the benefits of the Project outweigh the unavoidable adverse environmental effect, each of which standing alone is sufficient to support approval of the Project, and explains that the unavoidable environmental effect is considered acceptable.

1.2 Environmental Review Process

The City prepared an Initial Study of the Project and determined that implementation of the Project would result in potential impacts to the following issue areas: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology/Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use/Planning, Noise, Public Services, Transportation/Traffic, and Utilities and Service Systems. A Notice of Preparation (NOP) for the Project, dated December 18, 2006, was prepared and distributed to all Responsible and Trustee Agencies, as well as other agencies and members of the public who may have an interest in the project.

1.3 Certification of Final EIR 05-41

In conformance with CEQA, the City Planning Commission by Resolution No. PC 07-3973 recommended that the City Council certify Final EIR 05-41, and the City Council by Resolution No. 2007-6919 has certified Final EIR 05-41. No negative declaration, subsequent EIR, supplement or addendum to EIR 05-41 is required for the Project because no substantial changes have been proposed in the Project or have occurred with respect to the circumstances under which the Project is to be undertaken since certification of EIR 05-41, and no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time EIR 05-41 was certified as complete exists which would show that the Project would have any significant effects not discussed in EIR 05-41; that the significant effects previously examined in EIR 05-41 would

be substantially more severe than was shown in EIR 05-41; that any mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce a significant effect of the Project; or that mitigation measures or alternatives which are considerably different from those analyzed in EIR 05-41 would substantially reduce one or more significant effects on the environment. Likewise, no supplement to EIR 05-41 is required, and no addendum to EIR 05-41 is required because there are no changes or additions necessitating such an addendum. See Cal. Code Regs. tit. 14, §§ 15162-15164.

2.0 PROJECT DESCRIPTION

The complete project description is presented in Section 2 of both the Draft EIR and Final EIR. The Final EIR reflects the changes to the project description as they relate to the removal of the McMahr Bridge and construction of a bridge at the Via Vera Cruz crossing.

2.1 Project Location

The 217.3-acres San Marcos Creek Specific Plan and Floodway Improvement Project (“Project”) is located in the southwest central portion of the City of San Marcos. The project site is approximately one mile southwest of the city’s Town Center, and one mile northwest of California State University, San Marcos. The project area is generally bounded by San Marcos Boulevard and the Creekside Marketplace on the north; Grand Avenue and SR-78 on the east; the “Valley Verde” mobile home park, Discovery Street, and the generally undeveloped University Business Park area on the south; and Discovery Street on the west.

2.2 Project Setting

The area proposed for the Specific Plan is a relatively flat alluvial plain that slopes very gradually from east to west with San Marcos Creek, a perennial stream, running the length of the project area. The creek enters the area at the east end from culverts under SR-78 and exits the area under Discovery Road at the west end near San Marcos High School. Site elevations generally rise only 5 to 10 feet above the creek bottom across most of the site. As a result, roughly two-thirds of the area is located within the 100-year floodplain.

The project area currently includes a mixture of low-density commercial, legal non-conforming and non-conforming industrial and residential uses, and undeveloped vacant lands. Approximately 55 percent of the proposed Specific Plan area is vacant or undeveloped. Existing development is generally limited to the northern portion of the area and is oriented primarily to San Marcos Boulevard and secondarily to perpendicular side streets. The southern portion of the area surrounding San Marcos Creek is predominantly undeveloped and vacant.

Current uses in adjoining areas include predominantly commercial uses to the north (e.g., Old California Restaurant Row, Edwards Cinema, Frys, etc.) north east (Creekside Marketplace), east of SR-78 an RV Mall, mini storage facility, and predominantly residential uses to the south (Valley Verde Estates, Discovery Hills neighborhood) and west (residences as part of the unincorporated Lake San Marcos community and Lake San Marcos Country Club), and undeveloped portions of the Barham Discovery neighborhood to the southeast.

The proposed project area is accessed via a series of east-west and north-south streets. San Marcos Boulevard and Discovery Street, which bound the site, provide east-west access to the area, while Via Vera Cruz, Bent Avenue/Craven Road, and Grand Avenue provide north-south access. Freeway access is provided from interchanges at San Marcos Boulevard and Las Posas Road with SR-78.

2.3 Project Description

The project includes three primary components: (1) floodway improvements to San Marcos Creek, including hydraulic improvements to SR-78, (2) roadway and infrastructure improvements, and (3) implementation of the San Marcos Creek Specific Plan, which would serve as the master plan for the project area as the area builds out.

Each of these components is discussed in detail below. Except in minor respects as noted below, floodway improvements, as well as the roadway and infrastructure improvements are proposed to be developed in the first phase of the project. Implementation of the Specific Plan would occur as a second phase.

Flood Control Improvements

Flood control improvements would occur during the first phase of the project. The intent of the proposed flood control improvements is to provide flood protection for existing streets and existing and future uses in the project area, while maintaining a hydrologic regime that supports sensitive biotic communities along the creek corridor. Since future development within the San Marcos Creek watershed (both in and upstream of the project area) would continue to exacerbate flood potential by adding impervious surfaces that would increase both the rate and volume of stormwater runoff, the proposed flood control improvements have been designed to accommodate a FEMA 100-year storm event and to accommodate projected stormwater runoff at buildout of the City per the City Master Drainage Plan. Similarly, the flood control improvements have been designed to ensure that future development in the Specific Plan area does not increase potential for downstream flooding or harm the biological and aesthetic qualities the community seeks to protect.

Flood control improvements proposed as part of the project would provide the additional capacity needed to contain flood control facilities to contain stormwater run-off associated with 100-year storm events while protecting areas designated for development. Rather than modifying the existing creek channel and impacting existing vegetation and habitat, the improvement strategy is to establish a broad overflow area on either side of the creek channel that is contained by building up adjacent areas with levees, flood walls, and fill. The existing creek channel would continue to carry normal stream flows, while the broader overflow areas within the levees would accommodate storm flows that exceed the capacity of the existing natural creek channel. The overflow areas, which would be dry most of the year, generally would be maintained as natural open space.

The width of the overflow area between the levees ranges from approximately 250 feet to up to 500 feet. At its narrowest point just west of McMahr Road, the area between the levee would be approximately 250 feet. Through the core of the project area, between Bent Avenue and McMahr Road, the flood control corridor maintains a fairly consistent 400-

500-foot width. The upland portions of the overflow area would be maintained in native vegetation consistent with the landscape's indigenous character and the overflow channels' required conveyance capacity. Public access to the area between the two levees would be prohibited, except for the Discovery Park area between McMahr and Via Vera Cruz south of the creek.

In order to contain peak storm flows, the levees, flood walls and fill would range between 3 and 15 feet in height along the north side of the corridor, and between 10 and 15 feet high along the south side (In the area between McMahr Road and Via Vera Cruz on the south side of the channels, no levee or fill is required). The inboard side of the levees (i.e., facing the creek) generally would have a 3:1 slope. However, in an effort to soften the engineered appearance of the levees, the inboard slopes are flattened to 5:1 in some areas, and curves have been added to the levee alignment. The levee slopes also would be planted with native grasses and shrubs compatible with the upland species in the flood control channel to make the banks appear as natural as possible. To avoid having the levee create a wall between the creek open space corridor and future development to the north, fill would be used to raise the land on the north side of the levee to the same elevation as the levee top.

The floodway improvements include the removal of historic fill material that was illegally placed within the creek area and serves as a hydrologic constraint. This fill is located on the south side of the creek, west of SR-78. Upon removal of the fill, this area would be restored with high-value wetland vegetation.

Another component of the floodway improvement project would address the portion of Las Posas Creek that flows into San Marcos Creek in the northwestern portion of the project site. Within the project site, this portion of Las Posas Creek would be channelized into an open trapezoidal culvert or a box culvert.

SR-78 Hydraulic Capacity Improvements

Another component of the Flood Control Improvement portion of the project includes a new bridge to supplement the capacity of the San Marcos Creek culverts that cross beneath SR-78. The construction of the bridge at SR-78 would occur during the first phase of the project. The existing culverts constrain the creek flow and are the primary cause of the flooding along San Marcos Boulevard during the 100-year storm. The proposed bridge would be approximately 272 feet long and 155 feet wide, accommodating four 12-foot lanes and two 10-foot shoulders in both the westbound and eastbound directions. A bicycle/pedestrian pathway would extend approximately eighteen additional feet and consists of two 7-foot travel lanes, a concrete barrier to separate the pathway from traffic, and an outside concrete railing. The structure would be constructed in one of three ways: (1) six-span cast in place concrete slab, (2) five-span, pre-cast, pre-stressed concrete void slab, or (3) five-span, pre-cast, pre-stressed, concrete box beam.

The bridge structure would be supported on multi-column piers and high cantilever abutments. The high cantilever abutments would be supported on cast-in-drilled hole concrete or driven piles. The front face of the abutment wall would serve as the vertical side walls of the new channel. Concrete aprons would be required on the upstream and downstream sides of the bridge. The piers would consist of cast-in-drilled hole concrete or

driven piles and pile extensions. The channel bottom would be lined with concrete; therefore, scouring of soil adjacent to the piers would not be an issue.

Construction of the new bridge would be completed in several stages and would require lane shifts of the traffic. The current number of traffic lanes and freeway access as is current would be maintained during all stages. Except for some pavement overlay for the eastbound traffic lanes, SR-78 would essentially be restored as exists today. The major areas of work to accommodate the traffic staging include pavement overlays, restriping, sign relocations, and some localized widening as previously described. The area of SR-78 affected by the traffic staging extends about 1,500 feet east and west of the San Marcos Creek crossing. Throughout the analysis chapters of the Final EIR (Sections 3.1 through 3.10), the impact analysis for the SR-78 hydraulic improvements are called out separately. This was done to facilitate the use of the EIR by Caltrans for the issuance of the encroachment permit for the above-identified work.

Roadway and Infrastructure Improvements

Consistent with the General Plan, the four principal north-south streets (McMahr, Via Vera Cruz, Bent Avenue and Grand Avenue) through the proposed Specific Plan area would be improved to full urban standards and would provide through access between San Marcos Boulevard and Discovery Street. Bridges are proposed over San Marcos Creek at Via Vera Cruz and Grand Avenue.

Discovery Street Improvements

Discovery Street between McMahr Road and Craven Road would be raised in sections to be consistent with flood control elevations on the south side of the street and be improved to urban street standards. The improved roadway would include two 11-foot travel lanes in each direction, a 10-foot center turn lane, two 5-foot bike lanes and an 8-foot parking lane on the north side of the roadway adjacent to the proposed open space. Improvements to Discovery Street would occur as part of either Phase 1 or Phase 2 of the project.

A General Plan Amendment is required to modify the Circulation Element for the segment of Discovery Street between McMahr and Craven. This segment is currently identified as a Major Arterial and would be reclassified as a Secondary Arterial with parking along the north side of the street.

A General Plan Amendment is required to modify the Circulation Element for the segment of Grand Avenue between the future bridge to Discovery Street. This segment is currently identified as a Major Arterial and would be reclassified as a Secondary Arterial.

McMahr Road Improvements

McMahr Road would be extended through the project site as the extension of Las Posas Road. From San Marcos Boulevard to Creekside Road, McMahr Road would be designed as special four-lane Creekside District arterial with an 84-foot interim right-of-way (ROW) and 98-foot ultimate ROW. From Main Street to Creekside Road, McMahr would be designed as a two-lane collector with an 84-foot ROW. Improvements to McMahr Road would occur as part of Phase 1 of the project.

A General Plan Amendment is required to modify the Circulation Element for the segment of McMahr between San Marcos Boulevard and Discovery Street. The project will reclassify this segment as a special four-lane Creek District arterial with an 84-foot interim ROW and a 98-foot ultimate ROW. From Main Street to Creekside Road, McMahr would be designed as a two-lane collector with an 84-foot ROW. Additionally, the extension of McMahr to cross San Marcos Creek and connect with Discovery Street would be eliminated under the Circulation Element Amendment.

McMahr Road would be extended through the project site as the extension of Las Posas Road. From San Marcos Boulevard to Discovery Street, Creekside Road, McMahr Road would be designed as special four-lane Creekside District arterial with 84-foot interim right-of-way and 98-foot ultimate right-of-way. From Main Street to Creekside Road, McMahr would be designed as a two-lane collector with 84-foot right of way. Improvements to McMahr Road would occur as part of Phase 1 of the project.

Via Vera Cruz Improvements

Via Vera Cruz, between San Marcos Boulevard and Discovery Street, would be improved to have an 84-foot ROW with four 11-foot travel lanes, a 10-foot left turn pocket or a landscaped median. Additionally, there would be two 5-foot bicycle lanes and 10-foot sidewalks. The improvements to Via Vera Cruz include a bridge that would be approximately 450 feet in length, 84 feet in width and would include four 11-foot wide travel lanes, 5-foot bike lanes and multi-use trails on both sides. The bridge is also intended to include decorative features such as ornamental railing, pilaster, lighting, and banners that would visually enhance the bridge experience for pedestrians and traveling public.

Construction of the Via Vera Cruz bridge would require temporary access along both sides of the bridge. For ease of construction and to accommodate existing utilities, a 50-foot wide construction access and staging zone would be developed along both sides of the bridge. Improvements to Via Vera Cruz would occur as part of Phase 1 of the project.

Bent Avenue Improvements

Bent Avenue, between San Marcos Boulevard to Discovery Street would be upgraded to urban street standards consistent with their designations in the General Plan Circulation Element. Bent Avenue would be designed as a two-lane Collector with a 68-foot interim and 76-foot ultimate ROW. The improvements to Bent Avenue also include construction of an Arizona Crossing at San Marcos Creek. Bent Avenue improvements would occur as part of Phase 1 of the project.

Pedestrian Bridge

In addition to the roadway improvements across the creek, a 12-foot pedestrian bridge is proposed to enhance pedestrian opportunities within the project area. The pedestrian bridge is proposed near McMahr Road and would be inline with a north-south trending street within the proposed Specific Plan area. The pedestrian bridge would be developed as part of Phase 2 of the project.

Vallecitos Water District Improvements

In 2001, the Vallecitos Water District (VWD) approved replacement of the San Marcos sewer interceptor. A portion of the alignment for the interceptor falls within the project site. To date, VWD has constructed a portion of the sewer interceptor within the project area, though the majority of the project has not been completed. When the alignment approved in 2001 is reviewed in light of the proposed project, it may be beneficial for VWD to modify the alignment of the interceptor and conduct the replacement concurrent with development of the project. Construction of the VWD alignment would occur during or prior to Phase 1 of the project.

Water Improvements

The project site is within the service area of the VWD. Water line improvements are required to serve the project and include both Phase 1 and Phase 2 improvements. Phase 1 improvements would include construction of an approximate 12-inch waterline within Creekside Road. Phase 2 improvements would expand the water infrastructure into the proposed Specific Plan Area. These water lines would also be approximately 12-inch.

Sewer Improvements

VWD is also the wastewater provider for the project. Sewer line improvements are required to serve the project and include both Phase 1 and Phase 2 improvements. Phase 1 improvements would include construction of an approximate 8-inch sewer line within Creekside Road. Phase 2 improvements would expand the sewer infrastructure into the Specific Plan area. These sewer lines are expected to be 6 to 8 inches in diameter.

Drainage Improvements

Drainage improvements are proposed as part of the project and include approximately 5,900 feet of a new North Storm Drain System. The North Storm Drain System would begin at the north levee alignment and extend to the confluence of San Marcos Creek and Las Posas Creek. All flows north of San Marcos Creek would be routed through the new storm drain system which would ultimately discharge directly into San Marcos Creek. It should be noted that runoff would pass through bio filter before it is discharged into the storm drain system.

Additionally, a new South Storm Drain System, approximately 4,000 feet in length, would be placed along the length of Discovery Street from Bent Avenue to McMahr Road. The proposed widening of Discovery Street includes existing storm drains and routes them through the new South Storm Drain System. This system would discharge directly into San

Marcos Creek near McMahr Road. Drainage improvements are proposed as part of Phase 1 of the project.

Dry Utility Improvements

As part of the project, existing above-ground utility lines along Bent Avenue, Via Vera Cruz, McMahr Road and a portion of Discovery Street would be undergrounded. Interim temporary relocation of the lines would be required while roadway improvements are underway during Phase 1 of the project. This relocation would occur adjacent to the existing alignment, but outside of the road ROW. Ultimately, the lines would be undergrounded.

San Diego County Water Authority Pipeline Encasement

A 108-inch waterline owned by the San Diego County Water Authority (SDCWA) runs through a portion of the project site. During construction activities for the levee a portion of the SDCWA pipeline would be exposed and encased. The encasement would occur as part of Phase 1 of the project. Future development within the Specific Plan area would meet SDCWA requirements for easement maintenance.

San Marcos Creek Specific Plan

Specific Plan Land Uses

The San Marcos Creek Specific Plan area covers approximately 217.3 acres. This includes 81.7 acres proposed as mixed use development, 19.9 acres of park, 77.0 acres of open space, and 38.47 acres of ROW.

The 81.7 acres identified as mixed use would be developed with up to 1,265,000 square feet (s.f.) of retail, 589,000 s.f. of office, and up to 2,300 dwelling units. Differing development intensities are proposed throughout the Specific Plan area and are based upon differing Floor Area Ratios (FAR). FAR is the total floor area of a building or structure on a lot divided by the total area of the lot. FARs vary from 1.25:1 to 2.25:1 within the Specific Plan area. Development associated with the Specific Plan would vary in height depending on the location within the Specific Plan. The most dense areas would be a minimum of three stories (35 feet) and could reach up to 80 feet. The remaining areas of the Specific Plan would be a minimum of two stories (25 feet) and could reach up to 65 feet.

Within the developable portion of the Specific Plan, the development area is envisioned as a series of interconnected neighborhoods with differing land uses and physical characteristics. There are seven districts proposed.

A General Plan Amendment is required to change the existing General Plan land use designations to Specific Plan Area for those areas that are covered by the Specific Plan. Additionally, a Rezone is required to change the existing zoning to Specific Plan Area for the area that corresponds to the area identified in the Specific Plan.

3.0 APPROVALS

3.1 Issues Evaluated in Final EIR 05-41

The Final EIR evaluates the following environmental issues in relation to the Project: aesthetics, air quality, biological resources, cultural resources, hazards and hazardous materials, hydrology and water quality, land use, noise, public services, transportation and traffic, and utilities and services systems. The Final EIR also analyzes the cumulative and growth-inducing impacts of the Project, unavoidable significant environmental effects, significant irreversible environmental changes and alternatives to the Project.

3.2 Issues Discussed in These Findings

These Findings discuss those impacts found to be significant which can be mitigated to below a level of significance; impacts which remain significant even after implementation of all feasible mitigation measures; and alternatives determined to be infeasible.

3.3 Direct and Indirect Project Impacts

The Final EIR indicates that the Project's direct and indirect impacts on the following environmental issues are insignificant or can be reduced to less than significant levels if all recommended mitigation measures are implemented: (1) construction-related PM₁₀ and ROG impacts; (2) biological resources impacts including permanent and temporary jurisdictional wetlands and non-wetland waters of the U.S impacts, impacts to the sensitive habitat of coyote brush and isocoma scrub, impacts to sensitive plants including southern tarplant and southwestern spiny rush; and impact to migratory birds; (3) on-site cultural resources including CA-SDI-17423, and unidentified archaeological sites, impact to a CRHR-eligible historic residential structure (918 Discovery Street), and unknown paleontological resources; (4) hazardous materials in the levee fill material, the presence of leaking underground storage tanks on the project site, and the potential for asbestos-containing materials and lead-based paint; (5) hydrology and water quality including public stormwater drainage system, on- and off-site sedimentation, 100-year floodplain, and flood control design and levee safety; (6) land use inconsistency between proposed uses on the project site and the uses currently allowed under the General Plan and Zoning Ordinance, as well as inconsistency between the proposed right-of-way of two roadway segments; (7) short-term construction noise, increased on- and off-site vehicular noise, potential impacts from adjacent residential and commercial uses; (8) short-term construction traffic and potential to exacerbate existing unacceptable level of service at multiple project intersections and roadway segments, and (9) potential increase in the need for water and wastewater infrastructure

The Final EIR also indicated that the project's direct impact on the following environmental issue is significant, and, while mitigation measures are proposed, will not be reduced to below a level of significance: (1) project-level nitrogen oxides (NO_x) (construction-related), and (2) PM₁₀, ROG and NO_x emissions due to project operation mobile sources emissions.

3.4 Cumulative Impacts

As required by CEQA, this EIR analyzes the cumulative impacts of the project. Section 15355 of the CEQA guidelines defines a cumulative impact as “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” Cumulative impacts may result from individual effects of a single project or the effects of several projects that are developed within a particular window of time. All projects which are closely related, past, present or reasonably anticipated to occur in the future, were analyzed in Section 7.0 of the EIR. The impacts associated with the project were analyzed in conjunction with the effects of other projects within the project vicinity.

The Final EIR indicates that the projects cumulative impacts on the following environmental issues are insignificant or can be reduced to less than significant levels if all recommended mitigation measures are implemented: aesthetics, biological resources, cultural resources, hazards / hazardous material, hydrology and water quality, land use, noise, public services, transportation and traffic, and utilities and services systems.

The Final EIR also indicated that the project’s cumulative impact on air quality is significant and while mitigation measures are proposed, the following impacts will remain significant even after implementation of all feasible mitigation measures: project- and cumulative- level nitrogen oxides (NO_x), PM₁₀ and ROG emissions due to project construction and vehicular emissions.

3.5 Impacts That Remain Significant

The City Council finds that the impacts of the project have been mitigated to the extent feasible by the Project Design Features and mitigation measures discussed in the Mitigation Monitoring and Reporting Program. As demonstrated in these Findings, further mitigation of project impacts is infeasible. To the extent that project impacts have been mitigated to the extent feasible, it will be infeasible to further avoid, reduce, or mitigate the remaining significant cumulative effect to which the project contributes. A Statement of Overriding Considerations has been prepared pursuant to the State CEQA Guidelines. See Cal. Code Regs. tit. 14, §§ 15043, 15093.

4.0 ADOPTION OF FINDINGS

The San Marcos City Council hereby finds as follows:

- 4.1 The foregoing statements are true and correct.
- 4.2 Changes or alterations have been required in, or incorporated into, the Project which mitigate, lessen, or avoid significant environmental impacts as identified in Final EIR 05-41 and in these Findings.
- 4.3 The significant impacts of the project have either been mitigated to below a level of significance, or mitigated to the extent feasible.

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- 4.4 CEQA requires the lead agency approving a project to adopt a mitigation monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to ensure compliance with project implementation. A Mitigation Monitoring and Reporting Program is being adopted and serves that function for Final EIR 05-41. The Mitigation Monitoring and Reporting Program was approved concurrently with the project.
- 4.5 The Mitigation Monitoring and Reporting Program designates responsibility and anticipated timing for the implementation of mitigation. The City Planning Division will serve as the overall Mitigation Monitoring and Reporting Program Coordinator.
- 4.6 Section 21065 of CEQA defines the term "project" as "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is ... [a]n activity that involves the issuance to a person of a lease, permit ... or other entitlement for use by one or more public agencies." Section 15378(c) of the State CEQA Guidelines emphasizes that "[t]he term 'project' refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies," explicitly noting that "[t]he term 'project' does not mean each separate governmental approval." Accordingly, Final EIR 05-41 which the City has prepared and certified covers the entirety of the actions described in Section 2.4 of Final EIR 05-41 and is intended to be the basis for compliance with CEQA for each of the possible discretionary actions that may be approved by the City for the proposed development, including the General Plan Amendment and certain other regulatory and other minor permits listed in Section 2.4 of Final EIR 05-41. It also is contemplated that there may be a variety of discretionary actions undertaken by other state and local agencies (who might be referred to as "responsible agencies" under CEQA). Because the City is the lead agency under CEQA, Final EIR 05-41 which the City has prepared is intended to be the basis for compliance with CEQA for each of the possible discretionary actions by other state and local agencies as well.
- 4.7 Final EIR 05-41 was prepared to serve as a project-level EIR for implementation of the floodway improvements and the infrastructure and roadway improvements; the EIR also provides a program-level analysis of the impacts associated with implementation of the Specific Plan. Because specific development projects are not proposed within the Specific Plan area at this time, the EIR provides a program level clearance for this portion of the project. Subsequent environmental review may be required for future development within the Specific Plan area, including project-specific traffic and noise assessment. Other technical studies may be required on a project-by-project basis.

The EIR is to serve as an informational document which would inform public agency decision makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe the reasonable alternatives to the project. Section 2.4 of Final EIR 05-41 describes the intended uses of the EIR by the City and the other regulatory jurisdictions. Final EIR 05-41 was certified by the City Council in its Resolution No. 2007-6919 and, subject to Section 21166 of CEQA and Sections 15162 and 15163 of the State CEQA Guidelines, no additional CEQA review is required for the implementation of the General Plan Amendment, and other minor permits floodway improvements and the infrastructure and roadway improvements. Other additional approvals within the Specific Plan area for private development proposals were reviewed at a

programmatic level. For those aspects of the project reviewed at a programmatic level, additional environmental review may be required, and the need for review shall be analyzed under sections 21083.3 and 21166 of the Public Resources Code and Sections 15162, 15163 and 15168 of the State CEQA Guidelines.

- 4.8 The City Council believes that its decision on the Project is one which must be made after a hearing required by law at which evidence is required and discretion in the determination of facts is vested in the City. As a result, any judicial review of its decision will be governed by Section 21168 of CEQA and Code of Civil Procedure Section 1094.5. Regardless of the standard of review which is applicable, the City Council has considered evidence and arguments presented to the City prior to or at the public hearings on this matter. In determining whether the Project has a significant impact of the environment, and in adopting Findings pursuant to Section 21081 of CEQA, the City Council has complied with CEQA Sections 21082.2 and 21081.5.
- 4.9 Copies of all these documents, which constitute the record of proceedings upon which the City's decision is based, are and have been available upon request at all times at the offices of the City Planning Division, the custodian for such documents or other materials.
- 4.10 The Project's impacts have been analyzed to the extent feasible at the time of certification of Final EIR 05-41. The City hereby finds and declares that at this time there are no reasonably foreseeable extensions, expansions or alterations of the Project which are not described in Final EIR 05-41, based on the administrative record before the City at the time of its final decision on the Project, and that Final EIR 05-41 analyzes the Project in its full size and extent.
- 4.11 Having received, reviewed and considered the above described information, as well as all other information and documents in the record, the City Council hereby conditions the Project and finds as stated in these Findings.

5.0 **CEQA SECTION 21081(A)(1) FINDINGS: EFFECTS DETERMINED TO BE NOT SIGNIFICANT OR MITIGATED TO A LESS-THAN SIGNIFICANT LEVEL**

5.1 **Direct or Indirect Project Impacts**

The City Council, having reviewed and considered the information contained in EIR 05-41 for the Project and the public record finds, pursuant to CEQA, the State CEQA Guidelines and the Local CEQA Guidelines, that changes or alterations have been required in or incorporated into the project which avoid or lessen the significant environmental effects as identified in EIR 05-41 with respect to the areas of: (1) construction-related PM₁₀ and ROG impacts (2) biological resources impacts including permanent and temporary jurisdictional wetlands and non-wetland waters of the U.S impacts, impacts to the sensitive habitat of coyote brush and isocoma scrub, impacts to sensitive plants including southern tarplant and southwestern spiny rush; and impact to migratory birds (3) on-site cultural resources including CA-SDI-17423, and unidentified archaeological sites, impact to a CRHR-eligible historic residential structure (918 Discovery Street), and unknown paleontological resources; (4) hazardous materials in the levee fill material, the presence of leaking underground storage tanks on the project site, and the potential for asbestos-containing materials and lead-based

paint; (5) hydrology and water quality including public stormwater drainage system, on- and off-site sedimentation, 100-year floodplain, and flood control design and levee safety; (6) land use inconsistency between proposed uses on the project site and the uses currently allowed under the General Plan and Zoning Ordinance, as well as inconsistency between the proposed right-of-way of two roadway segments; (7) short-term construction noise, increased on- and off-site vehicular noise, potential impacts from adjacent residential and commercial uses; (8) short-term construction traffic and potential to exacerbate existing unacceptable level of service at multiple project intersections and roadway segments, and (9) potential increase in the need for water and wastewater infrastructure

5.1.1 Aesthetics

5.1.1.1 Impact(s): Based upon the analysis presented in Section 3.1 of the EIR, it was concluded that aesthetic impacts associated with the project would be less than significant.

5.1.1.2 Finding(s): Based upon the analysis presented in Section 3.1 of the EIR, it was concluded that aesthetic impacts associated with the project would be less than significant.

5.1.1.3 Facts in Supporting of Findings: No significant aesthetic impacts related to construction of Phase 1 and 2 of the project were identified for the project. Development associated with the Specific Plan area would result in a less than significant impact to scenic vistas and scenic resources. The project would not result in lighting or glare impacts, as future building would not including highly reflective finishes or excessive lighting. Future project within the Specific Plan would have to go through design review to ensure that they are compatible with the guidelines in the Specific Plan, and to ensure they are visually pleasing. Additionally, landscaping would soften the appearance of the building and revegetation within the creek would enhance the visual quality of the creek corridor. Therefore, the project was determined to have a less than significant aesthetic impact.

5.1.2 Air Quality

5.1.2.1 Impact(s): Construction of both Phase 1 and Phase 2 of the project would result in significant PM₁₀ and ROG emissions.

5.1.2.2 Finding(s): Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid some of the significant environmental effects on air quality.

5.1.2.3 Facts in Supporting of Findings: Incorporation of the following mitigation measures will reduce construction-related PM₁₀ and ROG emissions to below a level of significance.

Construction-Related PM₁₀ Emissions (Phases 1 and 2)

MM 3.2-1 The total disturbance acreage during demolition or new construction involving surface disturbance (clearing, excavation or grading) shall not exceed 10 acres per day.

MM 3.2-2 In addition to mandatory compliance with SCAQMD Rule 403, surface disturbance shall occur only in conjunction with the use of best available

control measures (BACMs), including, but not limited to, those presented in the table below.

BACM Requirements for Proposed Project

Construction Activity , Control Measures	
Earthmoving	<ul style="list-style-type: none"> • Conduct watering as necessary to prevent visible dust emissions from exceeding 100 feet in length in any direction. • Cease all active operations when winds exceed 25 miles per hour (MPH).
Disturbed Areas (Active)	<ul style="list-style-type: none"> • Apply dust suppression to maintain a stabilized surface. Water at least twice per day if there is any evidence of wind-driven fugitive dust. • Increase watering frequency to four times per day if winds exceed 25 MPH.
Inactive Areas (Previously Disturbed)	<ul style="list-style-type: none"> • Apply water at least once per day. • Increase watering if winds exceed 25 MPH.
Unpaved Roads	<ul style="list-style-type: none"> • Water all roads and restrict vehicle speeds to 15 MPH. • Stop all vehicular traffic if winds exceed 25 MPH.
Open Storage Piles	<ul style="list-style-type: none"> • Apply water on a daily basis. • Install temporary coverings, or water at least twice per day if winds exceed 25 MPH.
Trackout Control	<ul style="list-style-type: none"> • Prevent or remove within an hour any trackout of bulk material onto public paved roadways as a result of off-pavement operations.
Equipment Exhaust	<ul style="list-style-type: none"> • Give preference to grading contractors who provide exhaust soot filters on the majority of their diesel-fueled off-road equipment. • Require tune-ups for all off-road diesel-fueled equipment operating on-site for more than 90 days to reduce NO_x and smoke emissions from optimum ignition timing.
Paints and Coatings	<ul style="list-style-type: none"> • Require use of interior flat-stock coatings not to exceed 100 grams of VOC per liter. • Require use of high pressure, low velocity spray equipment to maximize transfer efficiency.

Construction-Related ROG Emissions (Phase 2)

- MM 3.2-9** Future development within the Specific Plan area shall use low-VOC paints and efficient transfer systems.
- MM 3.2-10** Future architectural coatings shall adhere to the requirements of SDAPCD Rule 67 (Architectural Coatings).
- MM 3.2-11** Finish work that includes architectural coatings shall be limited to 25,000 square feet per day. This requirement shall be included as a note on all improvement plans for development within the Specific Plan area.

Implementation of all mitigation measures listed in Section 5.1.2.3 will reduce significant construction-related PM₁₀ and ROG impacts by controlling emissions during project construction. This would reduce the emissions to below the thresholds established by SCAQMD.

5.1.3 Biological Resources

5.1.3.1 Impact(s): Biological impacts are addressed in terms of Phase 1 (construction) and Phase 2 (project operation). The Project will have the following significant biological impacts:

Phase 1 Impacts:

1. Direct permanent impact to 23.38 acres of jurisdictional waters and wetlands;
2. Direct temporary impact to 7.20 acres of jurisdictional waters and wetlands;
3. Direct permanent impacts to 0.06 acre of coyote brush scrub, 3.26 acres of disturbed coyote brush scrub, 0.28 acre of isocoma scrub, and 0.05 acre of disturbed isocoma scrub;
4. Direct temporary impacts to 0.58 acre of coyote brush scrub, 0.32 acre of disturbed coyote brush scrub, and 0.02 acre of disturbed isocoma scrub;
5. Direct permanent impacts to 2,400 southern tarplant individuals and six southwestern spiny rush individuals;
6. Potentially significant direct impacts to yellow-breasted chat, yellow warbler, green heron, black-crowned night heron, Cooper's hawk, snowy egret, and two-striped garter snake; and
7. Potentially significant indirect short-term and long-term impacts to wildlife due to noise, lighting, and vegetation removal, respectively (i.e., breeding migratory birds).

Phase 2 Impacts:

1. Direct impact to 0.78 acres of jurisdictional waters and wetlands;
2. Direct temporary impacts to 0.58 acre of coyote brush scrub, 0.32 acre of disturbed coyote brush scrub, and 0.02 acre of disturbed isocoma scrub;
3. Direct permanent impact to 0.74 acre of disturbed coyote brush scrub and 0.02 of disturbed isocoma scrub; and
4. Direct permanent impact to 1,600 southern tarplant individuals.

5.1.1.2 Finding(s): Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant environmental effects on biological resources.

5.1.1.3 Facts in Supporting of Findings: Incorporation of the following mitigation measures will reduce all direct and indirect biological impacts to below a level of significance. Mitigation measures will be discussed and implemented in terms of Phase 1 (project construction) and Phase 2 (project operation).

**Permanent Impacts to Jurisdictional Wetland and Non-Wetland Waters of the U.S.
(Phase 1 of Project)**

MM 3.3-1 Permanent impacts to jurisdictional waters of the U.S., including wetlands, totaling 23.38 acres due to Phase 1 improvements, shall be mitigated per the ratios identified in the table below:

Habitat Types	Permanent Impacts (acres)	Mitigation Ratio	Mitigation Acreage	
			Creation	Enhancement
Southern willow scrub	6.35	3:1	6.35	12.70
Disturbed southern willow scrub	0.14	3:1	0.14	0.28
Walnut woodland	0.04	1:1	0.04	---
Freshwater marsh	0.96	1:1	0.96	---
Herbaceous wetlands	6.83	1:1	6.83	---
Disturbed herbaceous wetlands	7.00	1:1	7.00	---
Alkali meadow	0.50	1:1	0.50	---
Disturbed alkali meadow	1.16	1:1	1.16	---
Open water	0.23	1:1	0.23	---
Open channel	0.16	1:1	0.16	---
Arundo	0.01	1:1*	--	0.01
TOTAL	23.38	---	23.37	12.99

Note: Mitigation for impacts to arundo will be mitigated at a 1:1 ratio with a native wetland community that would mimic similar functions of this habitat.

Of the 57.09 acres of jurisdictional waters and wetlands identified within the project area, 33.71 acres would remain preserved as open space and enhanced/restored, where appropriate, as part of the mitigation efforts for this project.

To achieve the appropriate hydraulics for the proposed levee, specific areas of the channel at both the downstream and upstream ends were designated for energy dissipation purposes. In lieu of riprap, a plantable articulated concrete block (ACB) matrix system (i.e., Armorflex or a suitable alternative approved of by the resource agencies) would be installed to allow for onsite revegetation. The mitigation ratios for wetland and non-wetland waters impacts are proposed in accordance with the 1989 federal “no net loss of wetlands” policy, which states that for each acre of wetlands impact, an acre must be restored, enhanced, and/or created thus maintaining and/or increasing the overall wetlands present. Thus, a total of 36.36 acres of wetlands mitigation is proposed to compensate for permanent wetlands impacts to 23.38 acres.

Of the 36.36 acres of proposed mitigation, 23.38 acres would be created both onsite and offsite and the remaining 12.99 acres would be either created and/or enhanced. Approximately 10 acres of wetlands mitigation would occur within the project area, where feasible, and would allow for terracing onsite in order to promote the growth of different types of vegetation and to better imitate floodplain-like functions. The balance of the mitigation obligation, totaling approximately 26.36 acres, would occur at an off-site

location(s). The off-site locations would be reviewed and approved by the City Planning Director. The criterion for the mitigation site includes a preference for a site in the same watershed or in geographic proximity, and replaces the function and value of the wetland lost.

The details of the revegetation program would be described in a conceptual wetlands mitigation and monitoring plan, which would be prepared and submitted to the USACE, RWQCB, and CDFG during the wetlands permitting phase of the project. The conceptual wetlands mitigation and monitoring plan would address all impacts to jurisdictional areas as well as mitigation needed to compensate for those impacts in accordance with resource agency permit requirements. The plan would summarize existing site conditions, discuss the project description and impacts, outline the goals of the revegetation program, detail the planting design, address plant materials sources and lead time, describe installation requirements, irrigation sources, erosion control, maintenance and monitoring requirements, and outline reporting/documentation requirements.

Permanent Impacts to Jurisdictional Wetland and Non-Wetland Waters of the U.S. (Phase 2 of Project)

MM 3.3-2 Permanent impacts to jurisdictional waters of the U.S., including wetlands, totaling 0.78 acres due to Phase 2 development, shall be mitigated per the ratios identified in the table below. This mitigation would be the responsibility of future developers within the Specific Plan Area, if the habitat identified in the table below occurs on their specific project area.

Habitat Types	Permanent Impacts (acres)	Mitigation Ratio	Mitigation Required
Southern willow scrub	0.07	3:1	0.21
Herbaceous wetlands	0.55	1:1	0.55
Disturbed herbaceous wetlands	0.16	1:1	0.16
TOTAL	0.78	---	0.92

Temporary Impacts to Jurisdictional Wetland and Non-Wetland Waters of the U.S. (Phase 1)

MM 3.3-3 Temporary impacts during Phase 1 to vegetated wetlands, totaling 7.20 acres, shall be restored at a 1:1 ratio to pre-construction contours and vegetation types.

MM 3.3-4 A weed eradication program shall also be implemented during the revegetation site preparation procedures and would continue throughout the long-term maintenance period. The mitigation areas, through expansion of the riparian zone, should provide increased benefits to native wildlife by providing additional buffering effects from the adjacent developments, increasing habitat diversity and increasing foraging opportunities, thus increasing the overall habitat function and value of this portion of San Marcos Creek.

Impacts to Sensitive Upland Habitat (Phase 1)

MM 3.3-5 Permanent and temporary impacts to 0.64 acre of coyote brush scrub, 3.58 acres of disturbed coyote brush scrub, 0.28 acre of isocoma scrub, and 0.07 acre of disturbed isocoma scrub due to Phase 1 of the project would be mitigated at a proposed ratio of 1:1 in accordance with the City's draft Subarea Plan. Therefore, a total of 4.57 acres of mitigation is required for impacts to these vegetation communities. This mitigation shall occur through off-site creation, enhancement, and/or preservation of 4.57 acres of coastal sage scrub, or any variant described herein.

Impacts to Sensitive Upland Habitat (Phase 2)

MM 3.3-6 Future development within the Specific Plan area (Phase 2) would result in impact to 0.74 acre of disturbed coyote brush scrub and 0.02 acre of disturbed isocoma scrub. This habitat would be mitigated at a proposed ration of 1:1 in accordance with the City's Draft Subarea Plan. Therefore, a total of 0.76 acres of mitigation is required for impacts to these vegetation communities. This mitigation shall be the responsibility of future developers within the Specific Plan Area, if the habitat identified above occurs on their specific project area.

Impacts to Sensitive Plants – Southern Tarplant (Phase 1)

MM 3.3-7 Impacts to 2,400 southern tarplant due to Phase 1 of the project shall be mitigated through relocation to suitable on- and off-site locations. This would be achieved through a combination of direct transplanting of mature plants, direct seeding, and planting of southern tarplant grown from seeds collected from the project area. Southern tarplant salvage areas shall be flagged for seed collection and individual plant salvaging during the appropriate collection period. Seed shall be collected from populations to be impacted and stored for subsequent seeding efforts at proposed translocation sites. A portion of the seed shall be propagated at a native plant nursery to produce container plants for out-planting at the proposed translocation sites. Each southern tarplant translocation site shall be designed in a location(s) where long-term viability of the populations can be assured (size of translocation site to be based upon original impacts to the existing population, estimated at 2,400 individuals). Soils and solar exposure shall be comparable to the original donor site. The translocated populations shall border native areas or

shall be established in context to the native plant revegetation effort, to help avoid invasion of non-native plant species. Proof of habitat acquisition shall be provided to the Planning Director prior to issuance of a grading permit. Additionally, the final restoration plan designed to achieve the above-specified performance measures shall be approved by the Planning Director.

Impacts to Sensitive Plants – Southern Tarplant (Phase 2)

MM 3.3-8 Impact to 1,600 southern tarplant due to future development in the Specific Plan area (Phase 2), shall be mitigated through relocation to suitable onsite and offsite locations. This would be achieved through a combination of direct transplanting of mature plants, direct seeding, and planting of southern tarplant grown from seeds collected from the project area. Southern tarplant salvage areas shall be flagged for seed collection and individual plant salvaging during the appropriate collection period. Seed shall be collected from populations to be impacted and stored for subsequent seeding efforts at proposed translocation sites. A portion of the seed shall be propagated at a native plant nursery to produce container plants for out-planting at the proposed translocation sites. Each southern tarplant translocation site shall be designed in a location(s) where long-term viability of the populations can be assured (size of translocation site to be based upon original impacts to the existing population, estimated at 1,600 individuals). Soils and solar exposure shall be comparable to the original donor site. The translocated populations shall border native areas or shall be established in context to the native plant revegetation effort, to help avoid invasion of non-native plant species. Proof of habitat acquisition shall be provided to the Planning Director prior to issuance of a grading permit.

Impacts to Sensitive Plants- Southwestern Spiny Rush (Phase 1)

MM 3.3-9 Direct impacts to southwestern spiny rush shall be mitigated through replanting within the project area. Southwestern spiny rush individuals potentially impacted would be planted within the project area within suitable riparian habitat.

Impacts to Sensitive Wildlife (Phases 1 and 2)

MM 3.3-10 To reduce indirect impacts to migratory birds, the City shall retain a qualified biologist to provide biological monitoring while work occurs within San Marcos Creek to assure that sensitive species present within the creek are not directly impacted by the proposed work. Construction would be phased, where feasible, to avoid work during the breeding season (*i.e.*, January through September). If construction activity is to commence during the breeding season (January 1 through September 15), a one-time pre-construction biological survey for nesting bird species must be conducted within the proposed impact area 72 hours prior to construction. This survey is necessary to assure avoidance of impacts to nesting raptors (*i.e.*, Cooper's hawk) and/or birds projected by the federal Migratory Bird Treaty Act. If any

active nests are detected, the area would be flagged and mapped on the construction plans along with a minimum of a 25-foot buffer and up to a maximum buffer of 300 feet for raptors, as determined by the project biologist, and would be avoided until the nesting cycle is complete.

- MM 3.3-11** Prior to issuance of grading permit, a protocol California coastal gnatcatcher survey shall be required. The survey shall be conducted by a permitted CAGN biologist. If the habitat is found to be occupied by a California gnatcatcher, no clearing or construction shall be allowed during the breeding season (February 15 – August 31). If construction should occur during the breeding season, a 300-foot buffer shall be established between construction activities and any occupied habitat. Protocol survey results shall be submitted to the Planning Director and USFWS for review.

Implementation of all mitigation measures listed in Section 5.1.3.3 will reduce the significant biological resources impacts to below a level of significance. Implementation of these mitigation measures will ensure that sensitive habitats impacted due to project construction are mitigated through restoration or creation efforts. Implementation of these mitigation measures also ensure that potential impacts to sensitive wildlife (nesting birds and raptors and California gnatcatcher) is protected through pre-construction surveys and avoidance, if they are found to occur on the project site.

5.1.4 Cultural Resources

- 5.1.4.1 Impact(s):** Development of the Project would result in an impact to CA-SDI-17423. Additionally the project has the potential to impact unknown archaeological resources. The project would also impact, one CRHR-eligible historic structure (918 Discovery Street), and the potential to impact unknown paleontological resources. This represents a significant impact.
- 5.1.4.2 Finding(s):** Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects on cultural resources.
- 5.1.4.3 Facts in Support of Findings:** The following mitigation measures will reduce the cultural resource impacts to below a level of significance:

Archaeological Resources

- MM 3.4-1** An archaeological data recovery program shall be prepared for CA-SDI-17423 that includes the following: (1) An acceptable data recovery plan stating the specific research goals and questions that are to be addressed if archaeological deposits are to be recovered; (2) postfield artifact processing and analysis; (3) report of findings; and (4) permanent curation of artifacts at a qualified institution in order to preserve and analyze a substantial portion of the site's information value.

Feature recovery shall employ standard archaeological excavation techniques. The data recovery shall be developed and implemented in consultation with

interested local Native American groups. A final report on the results of the archaeological recovery shall be submitted to the Planning Director and the Southcoast Information Center. Curation and report submittal shall occur prior release of the grading bond for the project.

- MM 3.4-2a** All initial grading activities in undeveloped areas bordering San Marcos Creek within the project boundary shall be monitored by a qualified archaeologist. In the event that buried archaeological resources are exposed during project construction, work within 50 feet of the find shall stop until the archaeologist can identify and evaluate the significance of the discovery and develop recommendations for treatment. The archaeologist shall also have the authority to make an informed, final decision to either resume construction or require more extensive investigation. If the discovered cultural resources display the potential to be significant, the archaeologist shall notify the City of San Marcos immediately, and all work shall stop immediately within an expanded 100-foot radius pending resolution of the discovery. Recommendations could include preparation of a treatment plan, which could require recordation, collection and analysis of the discovery; preparation of a technical report; and curation of the collection and supporting documentation at a qualified institution. At the completion of the activity that requires an archaeological monitor, the monitor shall submit a monitoring report including a daily log of all monitoring activity and possible recommendations to the Planning Director.
- MM 3.7-2b** Prior to the issuance of a grading permit, the project applicant shall enter into a pre-excavation agreement with the San Luis Rey Band of Mission Indians. The pre-excavation agreement shall include the following: 1) a culturally affiliated Native American monitor during initial grading activities, 2) the return of cultural items that may be found during project construction, and 3) proper treatment and reburial of any remains found.

Historical Resources

- MM 3.4-3** Prior to relocation of the residence at 918 Discovery Street, a Historic American Building Survey shall be conducted. The survey shall be prepared by a qualified historian and shall include large-format black and white photography of the exterior elevations and interior of the house. The survey shall also include a ground plan of the building, additional archive research and preparation of a detailed history of the building and its occupants.
- MM 3.4-4** Prior to any surface disturbance activities associated with the floodway improvement project, the residence at 918 Discovery Street shall be relocated to another location within the City of San Marcos. Upon relocation, the residence shall be rehabilitated. Rehabilitation shall occur in a manner that is consistent with the Secretary of the Interior's Standards for Rehabilitation.

Paleontological Resources

MM 3.4-5 Prior to the issuance of the grading permit for any grading within the project area (including Caltrans right-of-way), a qualified paleontologist shall review the proposed project area to determine the potential for paleontological resources to be encountered. If there is a potential for paleontological resources to occur, the paleontologist shall identify the area(s) where these resources are expected to be present, and a qualified paleontological monitor shall be retained to monitor the initial cut in any areas that have the potential to contain paleontological resources.

If fossils are discovered during project construction, the paleontologist shall recover them. In most cases, this fossil salvage can be completed in short period of time. However, some fossil specimens may require an extended salvage period. Under this scenario, the paleontologist shall be allowed to temporarily divert or direct grading and excavation to allow for recovery of fossil remains.

Implementation of all mitigation measures listed in Section 5.1.3.4 will reduce the significant cultural resource impacts to below a level of significance. Data recovery for site CA-SDI-17423 will ensure that the information contained in that site is documented and archived for future reference. Provision of a monitor during project construction will ensure that any identified cultural resources are properly identified. Relocation of the building at 918 Discovery Street and documentation via HABS will ensure that the value of the house is documented and preserved for future generations. Finally, analysis of the site by a qualified paleontologist, and monitoring of the site during grading (if required) will ensure that any unidentified paleontological resource is not damaged and that fossil recovery can occur.

5.1.5 Hazards and Hazardous Materials

5.1.5.1 Impact(s): Environmental review indicated that hazardous materials in the levee fill material, the presence of leaking underground storage tanks on the project site, and the potential for asbestos-containing materials and lead-based paint are potentially significant hazards within the project area.

5.1.5.2 Finding(s): Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant environmental effects of hazards and/or hazardous materials related to the project.

5.1.5.3 Facts in Supporting of Findings: The following mitigation measures will reduce the potential significant impacts to below a level of significance:

Transport, Use or Disposal of Hazardous Materials

MM 3.5-1a Fill material for levee construction and earthwork activity shall be free of organic matter, hazardous materials or other unsatisfactory materials. Written verification shall be provided to the City Engineer that the fill is free of hazardous materials.

MM 3.5-1b Prior to the issuance of any grading, demolition, or building permits for the project site, a Risk Management Plan (RMP) shall be prepared for the project site. At a minimum, the RMP shall establish soil and groundwater mitigation and control specifications for grading and construction activities at the site, including health and safety provisions for monitoring exposure to construction workers, procedures to be undertaken in the event that previously unreported contamination is discovered, and emergency procedures and responsible personnel. The RMP shall also include procedures for managing soils and groundwater removed from the site to ensure that any excavated soils and/or dewatered groundwater with contaminants are stored, managed, and disposed of in accordance with applicable regulations and permits. The RMP shall also include an Operations and Maintenance Plan component, to ensure that health and safety measures required for future construction and maintenance at the project site shall be enforced in perpetuity. The RMP shall be submitted to the City Fire Department for review and approval.

Underground Storage Tanks

MM 3.5-2 Prior to initiation of any grading, it shall be confirmed that there are no hazardous materials on the project site. In the event that hazardous materials are found on the project site, the materials shall be remedied in accordance with all federal and state requirements. Remediation shall be completed prior to construction within the impacted area.

MM 3.5-3 Project construction in areas where leaking underground storage tanks have been identified shall be avoided until proper clean up of the tanks has occurred. All clean up shall occur under a Workplan approved and overseen by the appropriate regulatory agency that has jurisdiction for the clean up. The Workplan shall include a summary of any Phase I and Phase II investigations and a summary table of sampling results for which hazardous materials were found.

Asbestos-Containing Materials and Lead-Based Paints (Floodway Improvements and Phase 2)

MM 3.5-4 Prior to demolition of any facilities or relocation of any buildings on the project site, a licensed asbestos inspector shall be retained to determine the presence of asbestos and asbestos containing materials (ACMs) within structures. The inspection shall be consistent with the federal and state occupational exposure standards for asbestos and ACMs. The applicant shall comply with all applicable state and federal abatement policies and procedures for removal of ACMs present on the site.

MM 3.5-5 Prior to demolition of any facilities or relocation of any buildings on the project site, a licensed lead-based paint (LBP) inspector shall be retained to determine the presence of lead-based paint and lead-based paint containing materials (LBPCM) within structures. The inspection shall be consistent with

federal and state occupational exposure standards for LBP and LBPCM. The applicant shall comply with state and federal abatement policies and procedures for removal of LBP and LBPCM present on the site.

- MM 3.5-6** Prior to removal of roadway and associated structures for the SR-78 hydraulic improvements, an assessment for asbestos-containing materials, lead-based paint containing materials and creosote-containing materials shall be conducted by a licensed inspector. Handling and disposal of asbestos-, lead- and creosote-containing materials (if found), shall be performed by a certified contractor according to Cal-OSAH guidelines, Title 8, Section 1532.1(e)(2)(B) and Section 1529 of the California Code of Regulations, and Federal EPA guidelines. Additionally, if asbestos-, lead-, or creosote-containing materials are discovered, a Health and Safety plan shall be prepared. The Health and Safety plan shall be submitted to Caltrans prior to construction and shall address the effects to persons working onsite and offsite, use of proper personal protective equipment onsite, handling and disposal measures of yellow paint and yellow thermalplastic paint and strip or pavement markings

Implementation of all mitigation measures listed in Section 5.1.5.3 will reduce the potentially significant hazards and hazardous material impacts to below a level of significance. Implementation of mitigation measures MM 3.5-1a and 3.5-1b would reduce potential impacts related to transport and use of hazardous materials. The testing of future fill material for the levees would ensure that contaminated soils are not brought onto the project site. The preparation of a RMP would ensure that environmental and worker safety is managed during project construction as it relates to potential contaminated materials. Mitigation measures MM 3.5-2 and MM 3.5-3 address the potential for hazardous materials on the project site as well as underground storage tanks that are known to occur on the project site. Adherence to these mitigation measures will ensure any hazardous conditions on the project site are remedied prior to project construction. Mitigation measures MM 3.5-4 through 3.5-6 will ensure that removal of existing roadway and any associated hazardous materials for the SR-78 hydraulic improvements will ensure that any hazardous materials are properly characterized and that they are removed in a safe manner consistent with current regulatory requirements. This would reduce the impact to below a level of significance.

5.1.6 Hydrology/Water Quality

5.1.6.1 Impact(s): Project construction and project operation activities associated with the project may result in a significant water quality, 100-year floodplain, and flood control impact. Impacts and mitigation measures will be addressed in accordance to the phasing of the project.

5.1.6.2 Finding(s): Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects to hydrology and water quality.

5.1.6.3 Facts in Supporting of Findings: The following mitigation measures will reduce the hydrology and water quality impacts to below a level of significance:

Water Quality (Phase 1 and Phase 2 Construction)

MM 3.6-1 Construction activities shall be guided by a project-specific SWPPP. The SWPPP shall include appropriate erosion and sediment control as well as non-stormwater management BMPs. The SWPPPs shall be developed to reduce impacts to water quality during project construction. The SWPPPs shall also contain monitoring programs for discharges from the construction sites for both sediment/turbidity and non-visually detectable particles. At minimum, the SWPPP shall include:

Specific and detailed Best Management Practices (BMPs), such as those set out in Table 3.6-1, shall be required for the project. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with stormwater. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain.

- On-site construction personnel shall be educated on the importance of stormwater quality protection. Site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP.
- Watering for dust control shall be performed during the dry season. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. If hydroseeding is selected as the primary soil stabilization method, then these areas shall be seeded by September 1st using native species only, and irrigated as necessary to ensure that adequate root development has occurred prior to October 1. Entry and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be provided and designed to be accessible and functional during both dry and wet conditions.

Water Quality (Phase 2 Project Operation)

MM 3.6-2 Pursuant to the City's Stormwater Standards Manual, project specific Water Quality Technical Reports (WQTRs) shall be prepared to mitigate water quality impacts each project within the Specific Plan area. For each specific project, the WQTRs shall identify the impacts, pollutants and hydrologic conditions of concern, and select the appropriate BMPs to be designed and implemented to mitigate the water quality impacts discharging from the project sites to prevent downstream impacts in the receiving waters.

The project shall implementing three types of Best Management Practices (BMPs) for the purposes of minimizing the discharge of pollutants and maintaining the flow events (discharge rates) from the post construction project site. Again, these BMPs are implemented to minimize the impacts from developments on downstream receiving waters that include San Marcos Creek, Lake San Marcos, Batiquitos Lagoon and the Pacific Ocean. The first is the use of Low Impact Development (LID) Site Design BMPs, the second is the use of Source Control BMPs, and lastly, Treatment Control BMPs will be implemented.

The LID Site Design BMPs will include minimizing the direct connections between impervious surfaces and the storm drain systems, use of alternative surfaces instead of impermeable surfaces, and site planning to minimize the impacts of the development. Specific BMPs may include: porous concrete; grassy swales; rooftops draining to landscaped areas; flow through planters, and; infiltration trenches.

The Source Control BMPs will include the enforcement of the City's Jurisdictional Urban Runoff Management Plan and Municipal Code sections that affect existing development including commercial and residential sectors. Additionally, once the development is complete, the site use is regulated based on the activities, e.g., commercial businesses or residential units. The future development will be inspected and the City's program enforced to minimize the discharges of pollutants.

Additionally, the project improvements will include physical Source Control BMPs where applicable. Specific BMPs may include: marking of storm drain inlets; educational kiosks/signage; efficient irrigation systems; enclosed trash storage areas, and; the use of alternative building materials.

The Treatment Control BMPs shall be implemented to treat the 85th percentile flows (i.e., first flush) from the project site. At this time, the proposed treatment system is a media filtration system that is capable of treating the 85th percentile flows from the entire proposed project development area (at the expected discharge rates). The media filtration system has cartridges that are interchangeable to treat the anticipated pollutant types from the project area. If it is determined that the pollutant types coming from the project area are different than currently anticipated, the media cartridges will be adjusted so that they are effective at treating the pollutant types and loads. Other treatment features may include the following: infiltration trenches; vegetated swales; buffers zones, and; inlet filtration as pre-treatment.

Sedimentation

- MM 3.6-3a** A check dam (i.e., berm) shall be constructed within San Marcos Creek at the Via Vera Cruz crossing to reduce sediment delivery to Lake San Marcos. The check dam shall be constructed on the channel bed across the bridge opening. The check dam will be constructed so that it will not erode during flow events. Natural materials such as rock or man-made materials such as concrete shall be used. If rock is selected, then grout will be needed to secure the rock in place. The grout shall be colored to blend with the natural surrounding. If concrete is used, it shall be colored and textured for a more natural appearance. A weir (or notch) shall be constructed within the check dam to prevent water from ponding upstream of the facility. The check dam shall be designed and constructed to minimize environmental impacts and disturbances to the creek. The Via Vera Cruz check dam shall be constructed within the temporary construction easement for the crossing to the extent possible.
- MM 3.6-3b** A check dam shall be constructed just upstream of Discovery Street. This check dam shall cause sediment to deposit upstream of Discovery Street and further reduce sediment delivery to Lake San Marcos. The check dam height shall be designed so that it does not adversely impact the upstream water surface elevations including the water surface elevations in Las Posas Creek. The Discovery Street check dam shall be constructed within the existing channel bed armoring to the extent possible.

Development Within a 100-Year Floodplain

- MM 3.6-4** Before any specific plan development may be approved by the City of San Marcos within properties currently within the 100-year floodplain, the applicant must demonstrate that a Letter of Map Revision (LOMR) removing the affected parcels from the floodplain or Conditional Letter of Map Revision (CLOMR) has been obtained from the Federal Insurance Administration of the FEMA.

Flood Control Facility Design/Levee Safety

- MM 3.6-5** The flood control facilities shall be designed by a professional engineer who would certify that the flood control facilities, including the levee, meet requirements for stability and safety as set forth by the U.S. Army Corp of Engineers. Final geotechnical and hydraulic studies shall be completed by professional engineers to support the certification of the levee.

Implementation of all mitigation measures listed in Section 5.1.6.3 will reduce hydrology and water quality impacts to below a level of significance. Mitigation measures MM 3.6-1 and MM 3.6-2 address potential water quality impacts associated with construction and operation of the project. These measures detail specific water quality control features that

would be used during project construction to ensure that any contaminants are captured before runoff enters San Marcos Creek and that existing water quality in the Creek is not degraded. Additionally, the requirements of a WQTR for Phase 2 operation of the project will result in the identification of additional BMPs and water quality treatment measures that would ensure Phase 2 operational impacts are reduced to below a level of significance with regard to water quality. Potential sedimentation impacts would be reduced to below a level of significance through implementation of two check dams within the Creek. These check dams would serve to slow the flow velocity, thus reducing the amount of sediment that is transported. As detailed in Table 3.6-6 of the Final EIR, with implementation of these measures, sediment delivery would actually be reduced from pre-project conditions. The reduction varies from 8,000 tons to 22,000 tons depending on the type of storm event. Implementation of mitigation measure MM 3.6-4 will ensure that the floodplain is remapped prior to construction of buildings within the current 100-year floodway. Finally, mitigation measure 3.6-5 will reduce any potential impacts related to levee safety, as the levee will be required to meet stability and safety requirements, as set forth by USACE.

5.1.7 Land Use

5.1.7.1 Impact(s): The Project will have the following significant land use impacts:

1. Proposed land use designations and zoning for the project are inconsistent with those provided for the City's General Plan, and
2. The proposed right-of-way for three roadway segments is inconsistent with the Circulation Element.

5.1.7.2 Finding(s): Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects on land use resources.

5.1.7.3 Facts in Supporting of Finding: The following mitigation measures will reduce the significant land use impacts to below a level of significance.

MM 3.7-1 Prior to project implementation, a General Plan Land Use Element Amendment shall be approved to change the General Plan designations within the portion of the project proposed for development as Specific Plan. This is warranted in that the proposed project uses would not be compatible with the existing land use designation and result in a significant land use impact.

MM 3.7-2 Prior to project implementation, a Rezone shall be approved for the areas identified for developed to Specific Plan. This is warranted in that the proposed project would not be compatible with the existing zoning for the property and result in a significant land use impact.

MM 3.7-3 Prior to project implementation, a General Plan Circulation Element Amendment shall be approved to reclassify the segment of Discovery Street between McMahr and Craven to a modified Secondary Arterial with parking along the north side of the street.

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MM 3.7-4 Prior to project implementation, a General Plan Circulation Element Amendment shall be approved to reclassify the segment of Grand Avenue between the future Grand Avenue bridge and Discovery Street to a Secondary Arterial.

MM 3.7-5 Prior to project implementation, a General Plan Circulation Element Amendment shall be approved to reclassify to segment of McMahr Road between future Main Street and Creekside Road and to eliminate the segment of McMahr between Creekside Road and Discovery Street.

Approval and implementation of the General Plan Amendments and Rezone noted above will make the proposed land use consistent with the General Plan document, thus reducing the impact to below a level of significance.

5.1.9 Noise

5.1.9.1 Impact(s): Project impacts are discussed according to project phasing. The project will have the following significant noise impacts:

Phase 1 Impact:

1. Significant short-term noise impacts created by construction equipment and related activities.

Phase 2 Impacts:

1. The construction of residential units with patios and balconies adjacent to roadways will result in a significant noise impact to exterior balcony spaces.
2. Interior noise levels are expected to exceed the 45 dB CNEL requirement for these residential units as well. This represents a significant impact.

5.1.9.2 Finding(s): Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects on sensitive noise receptors.

5.1.9.3 Facts in Supporting of Findings: The following mitigation measures will reduce significant and potentially significant noise impacts to below a level of significance:

Project Construction (Phase 1 and 2)

MM 3.8-1 A condition on the improvement plans and within construction contracts which require:

- Exterior construction, hauling or delivery activities shall be scheduled to occur during normal daytime working hours, i.e. 7:00 a.m. and 6:00 p.m., Monday through Friday, and 8:00 a.m. and 5:00 p.m. on Saturday. No construction would occur on Sundays and legal

holidays. These criteria shall be included in the improvement plans prior to initiation of construction. Exceptions to allow expanded construction activity hours shall be reviewed on a case-by-case basis as determined by the Planning Director.

- All heavy construction equipment and all stationary noise sources (such as diesel generators) shall be fitted with factory-specified mufflers.
- Truck routes, equipment warm up areas, water tanks, and equipment storage areas shall be located in an area as far away from existing residences, schools and other sensitive receptors, as is feasible.

The condition shall be reviewed and approved by the Planning Director prior to the issuance of permits.

- MM 3.8-2** The applicant shall prepare and post readily visible informational signs at each entrance of the construction area that indicates that the site is a “Noise Controlled Zone” and that person, vehicles, machinery and equipment may be barred from the site for violations of the noise regulations. A Noise Complaint Hotline telephone number shall appear prominently on the sign. The overall sign, including format, size, style and content shall be pre-approved by the City prior to posting.

Future Residential Units Exterior Noise Levels

- MM 3.8-3** As development proposals come forward for the Specific Plan area, noise attenuation shall be required to reduce noise levels to acceptable standards. In the event that patios and balconies are determined to occur within the 65 dBA noise contour, noise attenuation would be required to reduce noise levels to 65 dBA CNEL or lower. This may include the use of architectural treatments, barriers, or other noise attenuating measures. The mitigation measures shall provide sound level reductions so that future uses within the Specific Plan area are consistent with the CNEL levels identified in the San Marcos General Plan.

Future Residential Units Interior Noise Levels

- MM 3.8-4** Residential uses adjacent to project site roadways shall have dual-paned windows and supplemental ventilation (e.g., air conditioning systems) on their facades facing exterior roads.
- MM 3.8-5** Noise-sensitive uses within 500 feet of San Marcos Boulevard shall be shielded by intervening structures, or shall employ upgraded noise mitigation (e.g., premium windows, etc.). The hierarchy of structural noise reduction is as follows, and shall be employed as needed to meet interior noise level of 45 dB.

Exterior to Interior Reduction Desired (dB)	Measure(s) Needed
0-10	None
10-20	Close single-paned windows facing roadway. Provide supplemental ventilation.
20-25	Close standard dual-paned windows. Provide supplemental ventilation.
25-30	Close upgraded dual-paned windows. Provide supplemental ventilation. Baffle vents and line ducts with absorbers.
>30	Custom upgrades (dual layer drywall, triple-paned windows, steel doors, etc.)

Commercial/Residential Interface

MM 3.8-6 As development proposal come forward for the Specific Plan area, a site specific noise study shall be prepared for the development. The noise study shall analyze the impact of co-locating residential and commercial uses on the project site. Mitigation measures shall be identified and incorporated into the Conditional Use Permits, to reduce noise impacts associated with these uses. The mitigation measures shall provide sound level reductions so that future uses within the Specific Plan area are consistent with the CNEL levels identified in the San Marcos General Plan.

Implementation of these mitigation measures would reduce significant noise impacts to sensitive receptors to below a level of significance. Mitigation measures MM 3.8-1 and MM 3.8-2 provide specific requirements on construction activities related to Phases 1 and 2 of the project. Adherence to these measures would ensure that construction activities occur within reasonable hours and that there is a mechanism for complaints to be registered if the construction is causing a noise nuisance. Implementation of mitigation measures MM 3.8-3 through MM 3.8-5 would ensure that exterior and interior residential spaces meet city thresholds for noise. The use of architectural enhancements, including balcony shielding and enhanced window would attenuate excess noise levels to bring the potentially impacted interior and exterior spaces. Finally, the potential impact associated with the co-location of commercial and residential uses would be reduced through implementation of mitigation measure MM 3.8-6. The requirement of a site specific noise study, based upon future proposed project, would include the identification of mitigation that would reduce potential noise conflict impacts, thus reducing the potential impacts to below a level of significance.

5.1.10 Public Services

5.1.10.1 Impact(s): Based upon the analysis presented in Section 3.9 of the EIR, it was concluded that public service impacts associated with the project would be less than significant.

5.1.10.2 Finding(s): Based upon the analysis presented in Section 3.9 of the EIR, it was concluded that aesthetic impacts associated with the project would be less than significant.

5.1.10.3 Facts in Supporting of Findings: Development of the proposed project would result in an increase in demand for fire protection, police protection, school services, library facilities,

and parks and recreation; however, the increase would not be at a level that would result in a significant impact. Future developments within the Specific Plan area shall either annex into an existing community facilities district (CFD) or be responsible for payment of Level 2 school fees (\$4.26 per s.f.) as specified in the District's most recent School Facilities Needs Analysis at the time the building permit is obtained. The project would also have to contribute to a PFF payment, which includes a category for parks and recreation. Further, the project is consistent with the applicable goals, policies and implementing strategies of the Safety Element and the Park and Recreation Element of the San Marcos General Plan.

5.1.11 Transportation/Traffic

5.1.11.1 Impact(s): The project will have significant and potentially significant traffic impacts due to:

1. Increased short-term traffic of construction vehicles.
2. Under Horizon Year 2030 Level of Service Analysis conditions and operating under the Specific Plan land uses, roadway segment Main Street, Las Posas Road to Bent Avenue, are forecast to operate at deficient levels of service (LOS E or worse).

5.1.11.2 Finding(s): Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects due to traffic volume and circulation patterns.

5.1.11.3 Facts in Supporting of Findings: The following mitigation measures will reduce the impacts of short-term construction traffic and deficient levels of service for project roadways and intersections to below a level of significance:

Project Construction Traffic

MM 3.10-1 Prior to the issuance of grading permits and infrastructure improvement, the project applicant shall prepare a Construction Management Plan for review and approval by the Planning Director. The Construction Management Plan shall address the following:

- Control for any street closure, detour, or other disruption to traffic circulation;
- Routes that construction vehicles would utilize to access the site;
- Hours of construction traffic;
- Off-site vehicle staging and parking areas; and
- Posted information for contact in case of emergency or complaint.

Future Specific Plan Development

MM 3.10-2 As future development projects are proposed within the Specific Plan area mitigation measures to reduce project-level impacts to below a level of significance concurrent with impacts would be identified and implemented. Impacts shall be mitigated to a level of service that is consistent with the Circulation Element of the San Marcos General Plan.

Year 2030 Segment Impact (Main Street between Las McMahr and Bent)

MM 3.10-3 Extend Creekside Drive west from Bent Avenue to McMahr Road. This improvement shall be funded on a “fair share” basis by future developers within the Specific Plan area.

The implementation of these mitigation measures will reduce traffic and circulation impacts to below a level of significance. Mitigation measure MM 3.10-1 would require the preparation of a Construction Management Plan. The Plan would detail the requirements for construction traffic and would minimize potential traffic impacts through timing of truck trips, staging location identification and other means. The potential impacts to traffic associated with future projects within the Specific Plan area is mitigated through implementation of mitigation measure MM 3.10-2. This measure requires the preparation of project-specific traffic impacts and also requires that any impacts identified in the report are mitigated to levels of service that are consistent with the Circulation Element of the General Plan. This would ensure that traffic impacts associated with the gradual buildout of the Specific Plan would be less than significant. Finally, the extension of Creekside Drive from Bent to McMahr would provide additional east-west traffic flow capacity for the Year 2030 conditions. This would reduce the impact identified for Main Street between Las Posas and Bent to below a level of significance.

5.1.12 Utilities and Services Systems

5.1.12.1 Impact(s): The increase in wastewater service would require the upsizing of the San Marcos interceptor and the outfall at the Encina treatment plant. Although the interceptor and outfall are scheduled to be upgraded in the future, the development of this project would require early completion of these upgrades. This represents a significant impact.

5.1.12.2 Finding(s): Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects to wastewater service.

5.1.12.3 Facts in Supporting of Findings: The following mitigation measures will reduce the Utilities and Services Systems impact to below a level of significance.

Water and Wastewater

MM 3.11-1 Future development within the Specific Plan (Phase 2) shall not occur until the VWD San Marcos Interceptor project has been completed. Additionally, Water and Sewer Studies shall be prepared to the satisfaction of VWD and shall identify the needed infrastructure needed to support Phase 2 development of the project. These studies shall be completed within five months of project approval. Future developers within the Specific Plan area

shall be responsible for the payment of fair share fees for the necessary water and sewer infrastructure upgrades. Prior to implementation of any Phase 1 or Phase 2 improvements, a funding mechanism shall be established to be applied to future developers within the Specific Plan area to pay for the costs of such upgrades. Additional environmental review shall be required for any off-site improvements identified in the further Water and Sewer Studies. Additionally, prior to the issuance of building permits for Phase 2 development, the Water Supply Assessment shall be revised by Vallecitos Water District.

Implementation of mitigation measure MM 3.11-1 requires that a water and sewer study be prepared for the project to identify the infrastructure needs required to support Phase 2 of the project. Additionally, all development associated with the project shall be held until the San Marcos Interceptor project has been completed by VWD.

5.2 Cumulative Project Impacts

Based upon the analysis presented in Section 7 of the EIR, the project results in significant and unmitigated air quality impacts when PM₁₀, NO_x and ROG emissions from construction and operation of the project are considered with the future emissions of the cumulative projects, a significant cumulative impact is identified. The project includes mitigation measures to reduce some of the project emissions; however, it would not reduce project-level emissions to below a level of significance. Other development projects are anticipated to implement mitigation measures to reduce air quality impacts as well; however, those measures may not be enough to reduce the impacts to below a level of significance. In summary, when PM₁₀, NO_x and ROG emissions from operation of the project are considered with the future emissions of the cumulative projects, a significant cumulative impact is identified. All other cumulative impacts will be less than significant.

5.3 Issues Determined to be Less than Significant During Initial Study Process

As detailed in Section 5 of the EIR, the following issue areas were determined to be less than significant during the Initial Study process: 1) agricultural resources; 2) geology and soils; 3) hydrology and water quality; 4) mineral resources; 5) population and housing; 6) transportation and traffic (issue areas of air traffic patterns, design hazards, inadequate emergency access)

6.0 CEQA SECTION 21081(a)(2) FINDINGS: CHANGES WITHIN THE RESPONSIBILITY OR JURISDICTION OF ANOTHER PUBLIC AGENCY

The City Council, having reviewed and considered the information contained in Final EIR 05-41 and the Public Record for the Project, finds that there are no changes or alterations to the Project which avoid or substantially lessen the significant environmental effects that are within the responsibility or jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

7.0 CEQA SECTION 21081(a)(3) FINDINGS: SIGNIFICANT ENVIRONMENTAL EFFECTS WHICH WILL NOT BE FULLY AVOIDED IF THE PROJECT IS IMPLEMENTED.

7.1 Direct and Indirect Project Impacts

7.1.1 Air Quality

7.1.1.1 Impact(s): Project impacts are discussed in terms of project phasing; Phase 1 (project construction) and Phase 2 (project operation). The project would result in significant and potentially significant impacts:

Phase 1 Impacts:

- Significant short term PM₁₀, NO_x, and ROG emissions from construction activities including demolition, earthwork and grading, equipment emissions, and application of architectural treatments.

Phase 2 Impacts:

- Significant long term mobile source emissions (PM₁₀, NO_x, and ROG) from vehicular travel to and from the area.

7.1.1.2 Finding(s): Changes or alterations have been required in, or incorporated into, the project; however, the implementation of mitigation measures would **not** reduce impacts to below a level of significance.

7.1.1.3 Facts in Supporting of Findings: The following mitigation measures will be implemented to reduce air quality impacts; impacts will be minimized but will not be reduced to below a level of significance.

Construction-Related NO_x Emissions (Phase 1)

MM 3.2-3 Maintain equipment in tune as per manufacturers' specifications.

MM 3.2-4 Utilize catalytic converters on gasoline-powered equipment.

MM 3.2-5 The project applicants shall designate an on-site Air Quality Construction Mitigation Manager (AQCOMM) who shall be responsible for directing the BACM compliance with mitigation measures for project construction.

MM 3.2-6 All diesel-fueled engines used in the construction of the project shall use ultra-low sulfur diesel fuel, which contains no more than 15 ppm sulfur or alternative fuels (e.g., reformulated fuels, emulsified fuels, compressed natural gas, or power with electrification). Low-sulfur diesel fuel (500 ppm sulfur content) shall be used only if evidence is obtained and maintained from the fuel supplier(s) that ultra-low sulfur diesel fuel is infeasible.

MM 3.2-7 All construction diesel engines that have a rating of 50 horsepower (hp) or more shall meet, at a minimum, the Tier 2 California Emission Standards for Off-road Compression-Ignition Engines as specified in California Code of Regulations, Title 13, Section 2426(b)(1) unless certified by the on-site AQCMM that such an engine is not available for a particular item of equipment. In the event that a Tier 2 engine is not available for any off-road engine larger than 50 hp, that engine shall be a Tier 1 engine. If a Tier 1 engine is not available for any off-road engine larger than 50 hp, then that engine shall be a 1996 or newer engine. The AQCMM may grant relief from this requirement for an engine if compliance with this requirement is infeasible. All diesel-fueled engines used in the construction of the project shall have clearly visible tags issued by the AQCMM showing that the engine meets this requirement.

MM 3.2-8 Idling time shall be minimized to 5 minutes when construction equipment is not in use, unless more time is required per engine manufacturer's specifications or for safety reasons.

Construction-Related ROG Emissions (Phase 2)

MM 3.2-9 Future development within the Specific Plan area shall use low-VOC paints and efficient transfer systems.

MM 3.2-10 Future architectural coatings shall adhere to the requirements of SDAPCD Rule 67 (Architectural Coatings).

MM 3.2-11 Finish work that includes architectural coatings shall be limited to 25,000 square feet per day. This requirement shall be included as a note on all improvement plans for development within the Specific Plan area.

Vehicular Emissions (NO_x, PM₁₀ and ROG) (Phase 2)

In addition to providing alternative transportation facilities on-site which is planned as part of project design, the project shall incorporate the following mitigation measure to reduce operational-related emissions of NO_x, PM₁₀, and ROG:

MM 3.2-12 Prior to issuance of building permits, the applicant shall submit a transportation management plan and provide evidence to the satisfaction of the City that indicates compliance with the following measures outlined in the transportation management plan:

- Provide preferential parking for carpool/vanpool vehicles;
- Provide secure and conveniently located bicycle parking and storage for workers and patrons; and
- Provide preferential parking for hybrid and alternative fuel vehicles.

In addition, the following measure shall be included within the transportation management plan with specific criteria and standards to be reviewed and approved by the City:

- Use energy-efficient lighting and process systems, such as low-NO_x water heaters, furnaces, and boiler units.

Implementation of the mitigation measures identified would reduce some of the emissions associated with construction and operation of the project. These reductions are associated with the controlling emissions during project construction. Additionally, mitigation measure MM 3.2-12 provides measures which would enhance non-vehicular transportation which would, in turn, reduce some of the vehicular emissions anticipated for the project. To reiterate, these measures will reduce some of the emissions identified for the project, but would not reduce the cumulative air quality impact identified for the project. This impact remains significant and unmitigated.

7.2 Cumulative Project Impacts

7.2.1 Air Quality

The EIR concluded that the project would have a significant cumulative air quality impact. When PM₁₀, NO_x and ROG emissions from construction and operation of the project (including vehicular emissions) are considered with the future emissions of the cumulative projects, a significant cumulative impact is identified. The project includes mitigation measures to reduce some of the project emissions; however, it would not reduce project-level emissions to below a level of significance. Other development projects are anticipated to implement mitigation measures to reduce air quality impacts as well; however, those measures may not be enough to reduce the impacts to below a level of significance. Therefore, air quality impacts remain significant even after implementation of all feasible mitigation measures.

7.3 Project Alternatives

In developing the alternatives addressed in the EIR, the potential alternatives were evaluated in terms of their ability to meet the basic objectives of the project, while reducing or avoiding the environmental impacts of the project.

7.3.1 Project Goals

In considering and rejecting certain alternatives, the project objectives must be weighed against the ability of the various alternatives to meet most of these objectives. The project's objectives that were identified in Final EIR 05-41 and considered in these Findings are:

- Provide flood control by containing the 100-year flood plain.
- Implement the City's Circulation Element by completing circulation linkages through the project area.

- Protect project area and downstream water quality through biofiltration and management of sediment transport.
- Protect the biological resources in San Marcos Creek through habitat creation and restoration
- Develop a “24-hour” mixed use neighborhood including residential, retail, and office uses.
- Establish a distinct, regionally identifiable “downtown.”
- Establish a “walkable,” pedestrian-friendly district.
- Ensure that the project is economically viable and can fund supporting public infrastructure.
- Enhance the public experience with San Marcos Creek through passive recreation opportunities.

7.3.2 No Project/No Development

7.3.2.1 Description of Alternative: Under the No Project/No Development alternative, the project site would remain in its existing condition. No further development would occur under either the General Plan or the proposed Specific Plan. Additionally, no floodway or infrastructure improvements would be developed. Impacts identified for the Project would not occur, including significant impacts related to: Aesthetics; Air Quality, Biological Resources; Cultural Resources; Hazards/Hazardous Materials; Hydrology/Water Quality; Land Use; Noise; Transportation/Traffic; and Utilities and Services Systems.

7.3.2.2 Finding: Specific economic, legal, social, technological, or other considerations make infeasible the No Project/No Development alternative identified in EIR 05-41.

7.3.2.3 Facts in Support of Finding: Implementation of the No Project/No Development Alternative would avoid the project impacts which can be mitigated to a less than significant level. The No Project/No Development Alternative would not have any significant environmental impacts; however, it is not feasible, because it does not meet the project objectives. Compared to the project, this alternative would reduce the air quality, biological resources, cultural resources, hazards, noise, traffic (as it relates to restricted traffic movement during large storm events) and utility system impact that have been identified for the project. However, this project would not realize the beneficial improvements related to flooding and traffic flow in the project area. Under this alternative, the floodway improvements would not be implemented and flooding would occur during large storm events. This alternative would not meet any of the project objectives, as detailed below.

- Provide flood control by containing the 100-year flood plain.
- Implement the City’s Circulation Element by completing circulation linkages through the project area.
- Protect project area and downstream water quality through biofiltration and management of sediment transport.

- Protect the biological resources in San Marcos Creek through habitat creation and restoration
- Develop a “24-hour” mixed use neighborhood including residential, retail, and office uses.
- Establish a distinct, regionally identifiable “downtown.”
- Establish a “walkable,” pedestrian-friendly district.
- Ensure that the project is economically viable and can fund supporting public infrastructure.
- Enhance the public experience with San Marcos Creek through passive recreation opportunities.

7.3.3 No Project/Existing General Plan Alternative

7.3.3.1 Description of Alternative: The No Project/Existing General Plan Alternative is analyzed in Section 4.3.2 of the Draft EIR. Under the No Project/Existing General Plan alternative, the project site would be developed in accordance with the current General Plan designations on the project site. This includes 107 acres of commercial north of the creek and up to 1,170 multifamily residential units south of the creek adjacent to Discovery Street. Additionally, the roadway improvements identified for Bent Avenue, Via Vera Cruz and McMahr Road as part of the proposed project would be developed under this alternative. Floodway and infrastructure improvements were still assumed to occur under this alternative.

7.3.3.2 Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures and alternatives identified in EIR 05-41.

7.3.3.3 Facts in Support of Finding: Implementation of the No-Project/Existing General Plan Alternative would reduce the amount of air emissions, traffic, and noise generated as compared to the Project because trip generation would be reduced by 16 percent. While these impacts would be reduced, they would remain significant and unavoidable.

This alternative, however, would be infeasible because it would fail to achieve many of the project objectives. It would not result in a “24-hour” mixed use neighborhood, including residential, retail, and office uses, but rather would provide for distinct commercial and residential districts; it would not establish a distinct, regionally identifiable “downtown” because development would not proceed under specific plan; it would not result in a “walkable,” pedestrian friendly district because the commercial and residential districts would be separate and distinct and because the unified infrastructure plan for a walkable district provided for in the specific plan would not be implemented; it would not provide for an enhanced public experience with San Marcos Creek through passive recreation opportunities as are provided for in the specific plan. Additionally, under this alternative, traffic would not be distributed as well through the project area, as a grid system of streets would not be developed north of the creek. Finally, there could be noise impacts associated with putting multifamily residences adjacent to Discovery Street. Cultural resource impacts, hazards, and utility system impacts would be similar under this alternative as those identified for the project.

7.3.4 Via Vera Cruz Bridge Alternative

7.3.4.1 Description of Alternative: Under the Via Vera Cruz Bridge Alternative, a bridge would be proposed across San Marcos Creek at Via Vera Cruz. Under the proposed project, an Arizona crossing would be constructed at this location. This alternative was selected to reduce potential environmental impacts associated with an Arizona crossing. All other project components under this alternative would be similar to those identified for the project. This includes the intensity and type of development within the Specific Plan area and the proposed floodway and infrastructure improvements.

7.3.4.2 Finding: Based upon the value engineering efforts for the project, the current design of the project does include a bridge at Via Vera Cruz; however it eliminates the crossing at McMahr. Therefore, portions of this alternative have been included in the proposed project. The project, as proposed is not completely similar to this alternative, as the proposed project also removes the creek crossing at McMahr.

7.3.4.3 Facts in Support of Finding: Portions of this alternative have been included in the proposed design of the project.

7.3.5 Reduced Density Alternative

7.3.5.1 Description of Alternative: The Reduced Density Alternative assumes that the Phase 1 improvements would occur as proposed by the project. This includes the floodway improvements, SR-78 hydraulic improvements and roadway improvements. Phase 2 development, which calls for buildout of the Specific Plan, would be reduced by approximately 75 percent. This alternative was designed to reduce some of the air quality and noise impacts to below a level of significance. Assuming a 75 percent reduction in development intensity, this alternative would be developed with approximately 316,000 s.f. of retail, 147,000 s.f. of office use, and up to 575 residential units.

7.3.5.3 Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures and alternatives identified in EIR 05-41.

7.3.5.4 Facts in Support of Finding: Implementation of the Reduced Density Alternative would reduce the amount of air emissions, traffic and noise generated by the project, as trip generation would be reduced by 75 percent. This reduction would reduce some of the significant air impacts for the project, and would reduce all of the noise and traffic impact of the project. Cultural resources, and hazards impacts would be similar under this alternative as those identified for the project. Water and wastewater infrastructure impacts identified for the project would be reduced under this alternative.

While this alternative would reduce many of the significant impact identified for the project, it would not provide the intensity of development that would be able to support the expenses associated with the infrastructure development. This includes the proposed floodway improvements and the major roadway improvements to Discovery, Via Vera Cruz, Mc Mahr and Bent. Therefore, it does not meet the project objective related to the economic viability of the project and the funding to support public infrastructure.

Additionally, this alternative would not meet the objectives related to creating a regionally identifiable downtown. Under this alternative, development would be reduced by approximately 75%. This alternative would not provide enough density of development to provide the “momentum” needed to support a regionally-identifiable thriving downtown. Additionally, at such a low density, it is not certain that this alternative would result in a “24-hour” mixed use neighborhood including residential, retail, and office uses.

8.0 FINDINGS REGARDING OTHER CEQA CONSIDERATIONS

8.1 Growth-Inducing Impacts of the Project

The Project represents an infill project. The project vicinity is heavily developed with light industrial uses. The project site represents undeveloped parcels between existing light industrial land uses, commercial uses, and adjacent to a future commuter rail line. An existing bus transit station is located along West Mission Road on the campus of Palomar College. The project site will be accessible from existing Las Posas Road and Armorlite Drive. Existing potable water and sewer infrastructure is already in place along Las Posas Road and Armorlite Drive, and an adequate capacity exists to service the Project. Onsite improvements will be required to connect the project site with the local utility providers; however, these improvements would be required by any future developer on the project site.

Using a rate of 2.8 residents per dwelling unit, the project is anticipated to add 944 residents to the City. Given that the City of San Marcos has a population of approximately 61,000, the addition of 944 residents represents an incremental increase in population, but an increase of a less than significant amount (1.5%).

In conclusion, the location of the project site in an already urbanized area, with existing roadway and utility infrastructure in place, combined with an incremental increase in population, indicates that the Project will have a less than significant impact with regard to growth induction.

8.2 Significant and Unavoidable Project Impacts

Significant and unavoidable short-term construction and long term mobile source emissions impacts was noted for the project. These impacts are associated with PM₁₀, NO_x, and ROG levels that exceed the acceptable thresholds. Mitigation measures are provided to minimize impacts; however, impacts will not be reduced to below a level of significance. Therefore, unavoidable significant environmental impacts were noted for the project.

9.0 STATEMENT OF OVERRIDING CONSIDERATIONS

Based on the evidence presented in Final EIR 05-41, the following Findings of Fact have been made:

- (a) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the following potentially significant direct or indirect environmental

effects thereof to below a level of significance: Air Quality, Biological Resources; Cultural Resources; Hazards/Hazardous Materials; Hydrology/Water Quality; Land Use; Noise; Transportation/Traffic; and Utilities and Services Systems.

- (b) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the following potentially significant cumulative environmental effects thereof to below a level of significance: Air Quality (construction-related PM₁₀ and ROG), Biological Resources; Cultural Resources; Hydrology/Water Quality; Land Use; Noise; Transportation/Traffic; and Utilities and Services Systems.
- (c) Specific economic, legal, social, technological or other considerations make infeasible the mitigation measures or project alternatives identified in Final SEIR 04-40 to reduce the following direct or indirect impact to below a level of significance: Air Quality (short-term construction impacts and mobile source emissions impacts).

Sections 15043 and 15093 of the CEQA Guidelines can be summarized below:

- (a) CEQA requires the decision-maker to balance the benefits of a Project against its unavoidable environmental risks in determining whether to approve the project. If the benefits of a Project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- (b) Where the decision of the public agency allows the occurrence of significant effects which are identified in the final EIR but are not at least substantially mitigated, or if a mitigation measure set forth in the final EIR is not feasible to implement, or is not feasible to implement at the time called for in that EIR, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. This statement may be necessary if the agency also makes a finding under Section 15091(a)(2) or (a)(3).
- (c) If an agency makes a Statement of Overriding Considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination.

The Project will have significant direct, indirect or cumulative impacts on the following environmental issues:

- Air quality (project- and cumulative-level)
- Biological Resources (project-level)
- Cultural Resources (project-level)
- Hazards / Hazardous Materials (project-level)
- Hydrology/Water Quality (project-level)
- Land Use (project-level)
- Noise (project-level)
- Transportation/Traffic (project-level)
- Utilities and Services Systems (project-level)

The City has adopted all feasible mitigation measures with respect to these impacts. The City also examined a range of alternatives to the project, none of which both meets the project objectives and is environmentally preferable to the approved project.

Accordingly, the City adopts the following Statement of Overriding Considerations based on information in Final EIR 05-41 and on other information in the record. The City, pursuant to the CEQA Guidelines, after balancing the benefits of the Project against the unavoidable environmental effect which remain significant and after all feasible mitigation measures and alterations have been incorporated into the Project, and after the Project alternatives that will lessen or avoid such significant impacts have been rejected as infeasible, determines that the Project impacts are acceptable due to the following, each of which individually will be sufficient to outweigh the adverse environmental impacts of the Project:

- Development of the project will construct portion of the Circulation Element including Via Vera Cruz, Bent Avenue, and portions of McMahr. The construction of these components of the Circulation Element is important in providing for efficient travel within the City at buildout of the General Plan. Additionally, these Circulation Element roadways include pedestrian and bicycle facilities which will enhance alternative transportation modes within the City. Through the use of alternative transportation modes, besides personal vehicles, the number of vehicle trips can be decreased. This also results in a corresponding reduction in air quality emissions.
- Development of the project will alleviate flooded conditions on existing roadways in the project vicinity, thereby allowing consistent access for vehicular traffic, including emergency response vehicles. Currently, portion of San Marcos Boulevard, as well as other street in the project area, experience impeded traffic flows due to flooding conditions during high storm events. This results in more traffic being placed on other roadways and disrupts the intended roadway network designed for the City. Additionally, when roadways are closed or impeded due to flooding conditions, emergency vehicle access (e.g., fire, police and medical response) can be constrained. By eliminating the flooded conditions on these roadways, emergency vehicles will have better access to serve residents in the project vicinity during large storm events.
- Development of the project will meet market needs and public demand for mixed-use residential, live/work condominium units, retail and office/condominium units of varying sizes that will be marketable within the City of San Marcos. By providing a range of housing opportunities, the City of San Marcos will meet the need for housing the San Marcos and greater San Diego region at a variety of price levels. According to the San Diego Association of Governments (SANDAG), San Marcos will need over 31,000 housing units in 2020 to meet anticipated growth. This represents a more than 60% increase compared to the number of units that were available in 2000¹. Within the greater San Diego area, SANDAG has identified that a 33% increase in housing units is required based upon the number of units available in 2000². The development of up to 2,300 dwelling unit under the Specific Plan would help meet this demand. Additionally, the provision of retail and office uses will meet

¹ http://www.sandag.org/resources/demographics_and_other_data/demographics/fastfacts/sanm.htm

² http://www.sandag.org/resources/demographics_and_other_data/demographics/fastfacts/regi.htm

the needs of the City's growing population by providing a range of services and keeping tax revenue in the City.

- Development of the project provides opportunity for a jobs/housing balance within the community. Since the project provides both residential and commercial/office uses, the City will be able to have a balanced situation with regard to jobs and housing.
- Development of the project will increase employment opportunities within the City and the region for construction and related jobs, as well as for employment within the office/commercial uses that are proposed as part of the project.
- Development of the project will preserve and enhance 10.00 acres of sensitive wetland habitat on-site and create and enhance 26.36 acres off-site. The enhancement of wetland habitat on-site as well as off-site creation and enhancement will provide higher quality habitat for sensitive wildlife species.
- Development of the project will provide a comprehensive and integrated system of pedestrian-oriented open space areas that link the various districts of the Specific Plan area as well as the adjacent neighborhoods. This results in an amenity not only for future residents of the project area but for other residents in the City and surrounding community. A comprehensive and integrated system of pedestrian-oriented areas also provides an opportunity for fitness opportunities through walking and hiking which can benefit the over-all health and well-being of the community.
- The generation of property tax increment generated by Project development will be used for the construction of: 1) infrastructure and facilities; 2) income-qualifying housing; 3) schools; and 4) other improvements for the benefit of the community.
- The project complies with and implements the Regional Comprehensive Plan (RCP) and smart growth. The project meets the RCP's planning foundation of integrating land uses, transportation systems, and infrastructure needs. The proposed project is consistent with the goals of the RCP, as it provides a mixed use project adjacent to a regional transportation network (SR-78) and future transit corridors. Additionally, the Specific Plan prepared for the project includes bicycle and pedestrian facilities to offer alternative modes of transportation to residents of the project as well as community members who may frequent or pass through the project area. An intra-city shuttle bus is also proposed as part of the project to offer another alternative to vehicles. The development proposed by the project integrates several land uses. Specifically, the project proposes residential, retail and office uses. Further, the project meets the RCP goal of locating density adjacent to major freeways, interstates and transit corridors. The Specific Plan area is bordered by San Marcos Boulevard, which has ramps with SR-78 within ¼ mile of the northeastern portion of the development area and it is designated on the Regional Transportation Plan (RTP) as being a transit corridor that ties into the future SPRINTER station at San Marcos Boulevard and Mission Road. . A key recommendation of the RCP is to identify Smart Growth Opportunity Area. These areas represent places where compact, higher density, mixed-use, pedestrian- and transit-oriented development could be developed. The Specific Plan proposed for the project would create a development area that would meet these criteria.