

Torrey Highlands

Subarea Plan for North City
Future Urbanizing Area
Subarea IV

TORREY HIGHLANDS

SUBAREA PLAN

City of San Diego Planning Department

202 C Street, MS 4A
San Diego, CA 92101



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TORREY HIGHLANDS COMMUNITY PLAN

The following amendments have been incorporated into this January 2006 posting of this Plan:

Amendment	Date Adopted by Planning Commission	Resolution Number	Date Adopted by City Council	Resolution Number
Torrey Highlands Subarea Plan adopted			August 5, 1996	R-287749
Redesignated a portion of the Employment Center to LD and LMD Residential (Torrey Santa Fe)	December 2, 1999		December 7, 1999	R-292591
Redesignated 2 small areas from Institutional to LMXU and LMD Residential to Commercial Regional (Greystone Homes)	October 26, 2000		November 14, 2000	R-294053
Redesignated 39 acres from LD Residential to LMD Residential (Shaw)	August 1, 2002		September 24, 2002	R-297097
Reconfigured residential, commercial and open space areas and adjusted the community plan boundary on a 147-acre site (Rhodes Crossing)	February 5, 2004		March 30, 2004	R-299054



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Table of Contents

CHAPTER ONE: INTRODUCTION

1.1 Purpose and Need	1
1.2 Plan Organization	3
1.3 Torrey Highlands Planning Process.....	3
1.4 Planning Context	5

CHAPTER TWO: OPEN SPACE

2.1 Implementing Principles	13
2.2 Resource Protection Ordinance	13
2.3 Environmental Tier	15
2.4 Torrey Highlands Open Space Concept.....	17
2.5 Subarea IV Restoration and Enhancement Plan	19
2.6 Urban Amenity Open Space.....	24

CHAPTER THREE: CIRCULATION

3.1 Implementing Principles	29
3.2 Regional Circulation	29
3.3 Torrey Highlands Circulation.....	29
3.4 Transportation Alternatives.....	35

CHAPTER FOUR: LAND USE

4.1 Implementing Principles	43
4.2 Land Use Designations	43
4.3 Land Use Pattern.....	53
4.4 Parcel Yield	57

CHAPTER FIVE: COMMUNITY DESIGN GUIDELINES

5.1 Implementing Principles	63
5.2 Grading.....	65
5.3 Landscaping.....	66
5.4 Fencing and Walls	70
5.5 Streets and Trails	71
5.6 Development Areas.....	73

CHAPTER SIX: COMMUNITY FACILITIES

6.1 Implementing Principles	87
6.2 Schools	87
6.3 Parks and Recreation.....	91
6.4 Library.....	92
6.5 Law Enforcement.....	93
6.6 Fire Protection	93
6.7 Public Utilities	93

CHAPTER SEVEN: HOUSING

7.1 Implementing Principles 99
7.2 Affordable Housing 99

CHAPTER EIGHT: IMPLEMENTATION

8.1 Implementing Principles 103
8.2 Required Approvals 103
8.3 Facilities 104
8.4 Future Actions 105
8.5 NCFUA Consistency Within the Framework Plan 106
8.6 Purchase Agreements 107

APPENDICES:

Appendix A: School Facilities and Financing Plan 1
Appendix B: Recommended Plant List 47
Appendix C: Appendix D of the Biological Report: Restoration & Enhancement Plan 53

List of Figures

Figure 1-1: Subarea IV Regional Location Map 2
Figure 1-2: Phase Shift Map 4
Figure 2-1: NCFUA Open Space 14
Figure 2-2: Open Space Map 16
Figure 3-1: Existing Regional Circulation 30
Figure 3-2: Trails and Circulation Map 32
Figure 3-3: Neighborhood Circulation Concept 34
Figure 3-4: Street Sections 36
Figure 4-1: Land Use Plan 44
Figure 4-2: Land Use Legend 45
Figure 4-3: Neighborhood Map 54
Figure 4-4: Ownership Map 58
Figure 5-1: Grading Plan 64
Figure 5-2: Local Mixed Use Center—Northern Alignment 72
Figure 5-3: Residential Concept Adjacent to Open Space 78
Figure 6-1: Existing and Proposed Community Facilities 90

List of Tables

Table 4-1: Torrey Highlands Land Use Designations and Uses	46
Table 4-2: Torrey Highlands Land Use Acreage	48
Table 4-3: Property Owner Residential Land Use Yield.....	59
Table 6-1: Torrey Highlands Student Generation	88
Table 6-2: City of San Diego Fire Stations.....	93

Chapter One

Introduction

CHAPTER ONE: INTRODUCTION

The North City Future Urbanizing Area (NCFUA) is a 12,000-acre area stretching easterly from Interstate 5 (I-5) and Carmel Valley to the Rancho Peñasquitos and Rancho Bernardo communities. The NCFUA Framework Plan, adopted in October 1992, established five subareas as shown in **Figure 1-1**. A Subarea plan was to be prepared for each subarea; the document was to describe the open space, transportation, development and other definitive aspects of the proposed subarea upon buildout. This document is the plan for Subarea IV, which will be referred to as the Torrey Highlands Subarea. Subarea IV consists of 1,520 acres. However, the 386-acre Fairbanks Highlands property processed a map under the A-1-10 Zone, Planned Residential Development (PRD) Ordinance and City Council Policy 600-29. The City Council adopted this map in early December 1995. Consequently, while the 386-acre Fairbanks Highlands property is still part of Subarea IV, it was not included as part of the Torrey Highlands phase shift. Total acreage for Torrey Highlands that was the subject of the November 1996 phase shift vote, therefore, was 1,134. The boundaries for Fairbanks Highlands and Torrey Highlands within Subarea IV are illustrated in **Figure 1-2**.

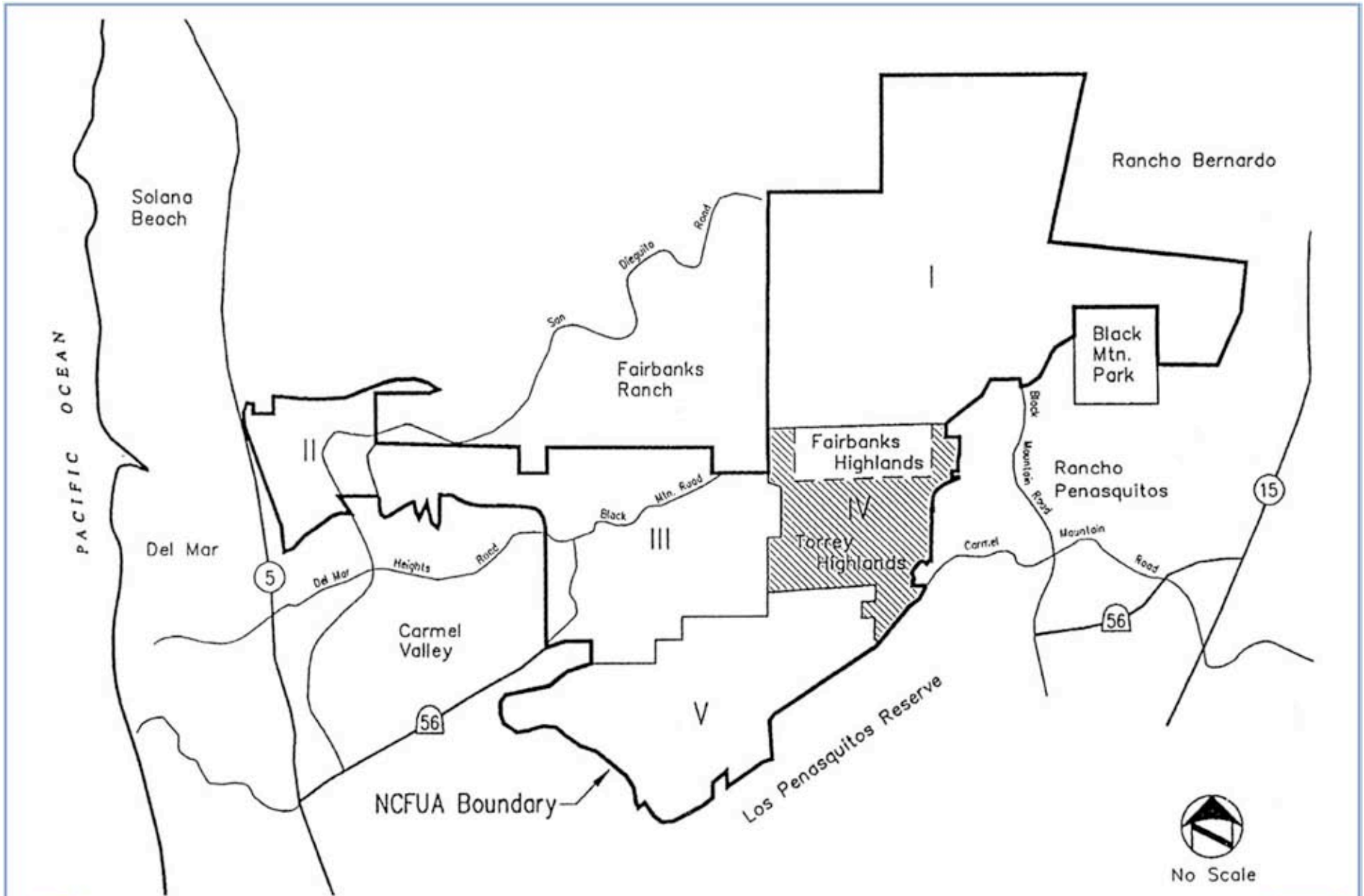
The originally adopted Torrey Highlands Subarea Plan (Plan) incorporated two alternative Caltrans alignments for State Route 56 (SR-56) that were the subject of an environmental impact report (EIR) processed by the City of San Diego. Two separate Torrey Highlands land use plans reflecting the central alignment and the northerly alignment were presented in equal detail. As always, the EIR also considered a “no project” alternative. In 1998, the northerly alignment of SR-56 was selected for implementation. This Plan was subsequently amended to reflect approval of the northerly alignment, eliminating the central alignment land use plan and corresponding discussion of the proposed central alignment.

1.1 PURPOSE AND NEED

The Framework Plan requires that individual subarea plans be prepared, prior to voter consideration of a phase shift for the NCFUA. The purpose of a subarea plan is to refine and augment the NCFUA Framework Plan within a particular subarea’s boundaries, while remaining consistent with the adopted goals and policies of the Framework Plan and the City Progress Guide and General Plan (General Plan).

The Torrey Highlands Subarea Plan refines the generalized Framework Plan based on the need to:

- Develop a refined land use plan within the context of the Framework Plan
- Develop alignments for the major circulation element roads (Camino Ruiz, Carmel Valley Road and Carmel Mountain Road)
- Provide for a future alignment for SR-56
- Define development boundaries consistent with the MSCP Preserve
- Locate public facilities
- Designate pedestrian, bicycle and equestrian trail corridors



Subarea IV Regional Location Map

Torrey Highlands Subarea Plan

1-1
FIGURE

1.2 PLAN ORGANIZATION

The Plan consists of text which sets forth goals, policies, proposals and recommended actions, and a land use map depicting land use designators throughout the community. The Plan text is organized as follows:

Chapter 1, Introduction describes the purpose, reasons and background for the Plan development.

Chapter 2, Open Space describes the adopted Multiple Species Conservation Program (MSCP), which establishes a regionally significant open space system that will sustain biodiversity and connect to surrounding open space areas. The chapter also describes the open space amenities within the Subarea.

Chapter 3, Circulation describes the major circulation routes providing access to and through the community. In addition, this chapter describes motorized and non-motorized transportation alternatives to the single-occupancy vehicle, including bicycle, pedestrian, and equestrian trails and paths, as well as transit.

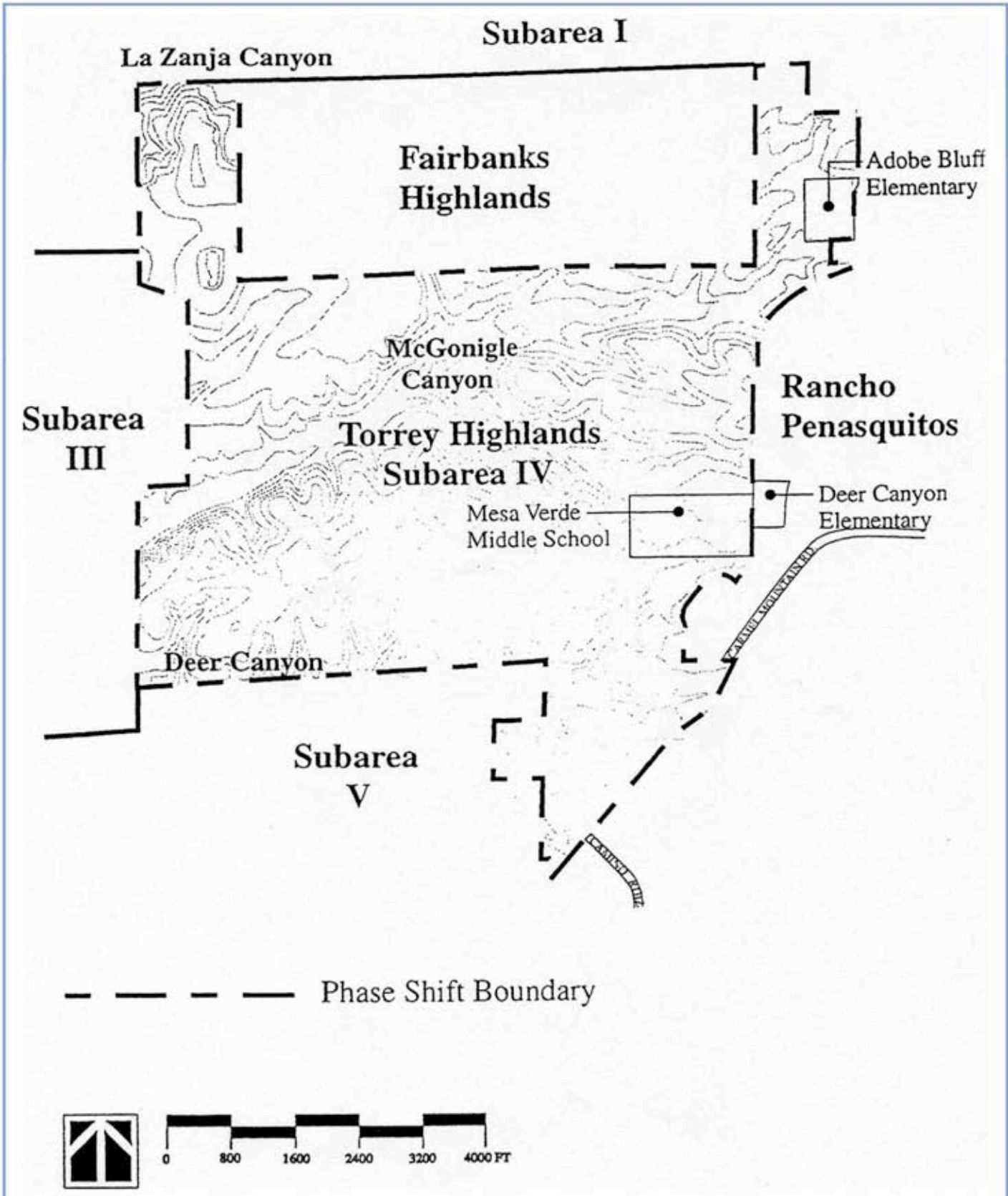
Chapter 4, Land Use, Chapter 5, Community Design Guidelines, Chapter 6, Community Facilities and **Chapter 7, Housing** respectively provide the land use plan for Torrey Highlands, establish goals for future development, identify policies to guide development, and describe more specific detail for policy implementation throughout the plan area.

Chapter 8, Implementation describes the required actions and mechanisms to achieve the Plan.

1.3 TORREY HIGHLANDS PLANNING PROCESS

Subsequent to the adoption of the Framework Plan in 1992, NCFUA property owners participated in a coordinated effort for the planning of four subarea plans within the NCFUA to allow these areas to shift from Future Urbanizing to Planned Urbanizing Area at one time. Consultant and property owner teams worked on separate plans for each of the subareas, with extensive coordination occurring in the areas of circulation/road alignments, MSCP/Environmental Tier refinement, and public facility location. Ongoing dialogue was maintained with community planning groups adjoining the subareas in planning. In March 1994, prior to the completion of the subarea plans, the City Council decided to place a phase shift measure on the June 1994 ballot for the entire NCFUA. It failed to gain a majority vote.

According to the Framework Plan, once a phase shift effort for the entire NCFUA has failed, then individual subareas are allowed to proceed for a phase shift vote if they comply with the Framework Plan, including completion of a subarea plan. The Torrey Highlands Subarea Plan that was begun in 1993 has been revised, updated and completed to comply with the requirements set forth by the Framework Plan and was



Phase Shift Map 1-2
Torrey Highlands Subarea Plan **FIGURE**

adopted by the City Council on August 5, 1996 and submitted for a phase shift vote on the November 5, 1996 ballot. The ballot measure passed, and this Plan became effective. (Additionally, several other requirements regarding schools, parks, financing and open space were met prior to the subarea plan becoming effective in October 1998).

The final land use plan for the Torrey Highlands community has been achieved as a result of planning steps taken to realize the specific goals of the Framework Plan. The first step involved the gathering of data and analysis of existing conditions including the review of on-site environmental opportunities and constraints. This step led to the refinement of the boundaries of the Environmental Tier through the application of MSCP planning criteria. These resource protection boundaries, in turn, have established the most significant opportunities and constraints for Torrey Highlands land use planning. The alignment of regional circulation roads was the next step, followed by the determination of required public facilities and their location within Torrey Highlands. The next step involved relating the development pattern to the Local Mixed Use Center consistent with neo-traditional planning concepts. This includes identification of pedestrian trails and bicycle links throughout Torrey Highlands. The final step involved combining all the elements to create two land use plans of equal detail for Torrey Highlands, which anticipated the two alignments for SR-56 that were under review by the City of San Diego and Caltrans. With approval of the northerly alignment in 1998, the land use plan showing the central alignment of SR-56 was eliminated from the Plan through an amendment process.

The Plan text defines the implementing principles and policies that will guide the development of the community. Upon its adoption in August 1996, the Plan became the guide for future discretionary actions including tentative maps, planned development permits, rezoning and other discretionary actions.

1.4 PLANNING CONTEXT

1.4.1 Physical Characteristics

Topography: Torrey Highlands is characterized by a wide range of landforms including a series of canyons and ridges, relatively flat mesas and floodplains, and gently to steeply sloping hillside terrain. Three canyons occur within or adjacent to the project area: McGonigle Canyon bisects the property in a southwesterly direction, Deer Canyon extends in an east/west direction just south of the project area, and the upper reach of La Zanja Canyon extends into the northwestern portion of the project area. Slopes with a gradient exceeding 25 percent occur along some of the drainages of these three canyons and a 100-year floodplain has been delineated per FEMA guidelines for McGonigle Canyon.

Visual Resources: Major visual resources in Torrey Highlands include on-site and off-site views that will be utilized in developing the community. Primary on-site views include the Pacific Ocean as seen from higher elevations in Torrey Highlands, Del Mar Mesa to the south, and Black Mountain to the northeast.

Several eucalyptus groves in McGonigle Canyon and the southeast portion of the subarea provide view opportunities as does Deer Canyon located to the south of the plan area. From off-site, most of the Torrey Highlands plan area is visible from the existing Rancho Peñasquitos developments to the east, Del Mar Mesa to the south and Subarea III to the west.

Vegetation: The majority of the project area has been disturbed by agricultural activities and is covered with non-native grasses. Various types of native vegetation on-site include Diegan coastal sage scrub, chamise chaparral and mixed chaparral. Several groves of eucalyptus trees occur within the project area. Coast and valley freshwater marsh, mule fat scrub, southern riparian scrub and southern willow scrub occur along portions of the on-site drainages. Small isolated patches of scrub oak chaparral also occur on-site.

1.4.2 Existing Land Uses

Existing land uses within the project area include commercial nurseries in the northwest and northeast portion of the site, equestrian facilities and several residences in the northwest and northeast portions of the site. Two schools operated by the Poway Unified School District exist along the eastern boundary of Torrey Highlands: Adobe Bluffs Elementary School, located along the northeast edge and Mesa Verde Middle School, along the southeastern edge of the project area. A 100-foot wide San Diego Gas and Electric (SDG&E) transmission easement exists along the western project boundary containing wooden poles supporting 69-kilovolt (kV) lines and steel lattice towers supporting 230-kV lines. Black Mountain Road (also known as Carmel Valley Road or Del Mar Heights Road) exists as a two-lane dirt road through the northerly portion of the project area. A sewer line and easement exist along McGonigle Canyon and a water line and easement pass through the project area, south of the existing unpaved Black Mountain Road.

1.4.3 Surrounding Land Uses

Rancho Peñasquitos: Residential development within the Rancho Peñasquitos community abuts most of the eastern boundary of Subarea IV, including three neighborhoods that are adjacent to Torrey Highlands: the Bluffs on the northeast, Twin Trails to the southeast, and Parkview to the extreme southeast. These neighborhoods are currently in various stages of development and are predominantly single-family in nature. According to the Rancho Peñasquitos Community Plan, 51 percent of the community is designated as residential; with low-density (1-5 du/ac) housing comprising 87 percent of the residential development within the community. Parks and open space account for 34 percent, streets and utilities nine percent, institutional three percent, commercial two percent, and industrial one percent of the community.

1.4.4 Planned Land Uses

North City Future Urbanizing Area - Subareas: The North City Future Urbanizing Area surrounds Torrey Highlands to the north, south and west. Although subarea plans for all of the NCFUA were not completed when this Subarea Plan was prepared, the proposed land uses for the NCFUA were important to consider during planning of Torrey Highlands.

Subarea I is to the north and includes the Black Mountain Ranch tentative map and planned residential development (PRD), approved in November of 1992 and revised in October 1995, allowing development of single-family estate lots, affordable multifamily units, two golf courses and a series of associated uses including public and private schools, churches, public facilities and reservoirs. This development does not require a phase shift vote. A phase shift for the remainder of the Subarea was approved in November 1998. The Subarea I plan calls for an additional 4,279 dwelling units, 1,350,000 square feet of commercial uses, 650,000 square feet of office uses, a 300-room resort/hotel, and north and south village mixed-use centers (CMXU), providing pedestrian-friendly environments and public and quasi-public facilities/services.

Subarea III is located to the west of Subarea IV. The Framework Plan proposed a total of from 5,400 to 6,500 dwelling units, a mixed-use core and several neighborhood areas emphasizing pedestrian-friendly forms of development. The owner of a 72-acre parcel at the southwestern edge of the Subarea filed an application for a phase shift vote in November 1996. This project, called Seabreeze Farms Estates, proposed an Equestrian Center, 220 single-family homes and 55 multifamily dwelling units. The application was approved and was placed on the November 5, 1996 ballot. The proposition was approved by the voters. The Subarea III Plan, also called the Pacific Highlands Ranch Subarea Plan, was approved by the City in 1998, and was the subject of a successful phase shift vote in November 1998. The Subarea Plan calls for 4,974 residential units, a 33-acre Village area, a 20-acre employment center, seven school sites, a civic use area, and various areas of open space.

Subarea V (Del Mar Mesa) which is to the south, is primarily designated for very low-density development and open space resources. A specific plan, which contemplates the ultimate development of up to 688 dwelling units, was approved by the City Council on July 30, 1996. Implementation of the Del Mar Mesa Specific Plan does not require a phase shift vote.

Subarea IV includes Fairbanks Highlands and Torrey Highlands. Torrey Highlands has proceeded under a planning process in accordance with the Framework Plan. This subarea includes McGonigle Canyon, which forms an important wildlife corridor linking Peñasquitos Canyon Preserve, Deer Canyon, the San Dieguito Regional Park, La Zanja Canyon and Black Mountain Park. Torrey Highlands will also ultimately incorporate public facilities including a

high school, an elementary school and a portion of a middle school. The Torrey Highlands Local Mixed-Use Center (LMXU) will provide neighborhood-serving opportunities for shopping and employment. In total, the Torrey Highlands Subarea will contribute a maximum of 2,600 dwelling units, including affordable housing, to the region's housing stock. The employment center is being proposed to provide job opportunities for the northern part of the City of San Diego.

1.4.5 Planning Principles

The following planning principles guided the development of the Plan and are stated here to emphasize the overall goals for future development:

Environmental

- Preserve biodiversity, significant resources, landforms and habitat.
- Provide for and contribute to a comprehensive open space system.

Regional Planning

- Provide a well-integrated land use pattern that provides for a range of housing and employment opportunities.
- Promote development patterns complementary to the adopted plans and existing development patterns of existing communities.
- Provide recreational opportunities to serve the needs of Torrey Highlands residents and residents of existing, adjoining communities.
- Provide open spaces separating residential neighborhoods, while providing links through a series of pathways and trails.

Balanced Land Use

- Provide a range of residential housing alternatives, from very low-density single-family estate product types to LMXU density multifamily product types.
- Provide housing opportunities for persons with special needs. Integrate low- and moderate-income housing opportunities throughout the community.
- Provide for a diversified economic base that will contribute to supporting required public services in Torrey Highlands.
- Create employment opportunities for area residents including commercial development in the LMXU, as well as office and research development in the employment center.
- Distribute land uses and design facilities to encourage the use of alternative modes of transportation through the inclusion of a bicycle and pedestrian network, as well as allowing for potential transit modes.

- Provide commercial and civic facilities in the LMXU to meet the daily needs of area residents.

Facilities Concurrent with Need

Throughout the plan area, as well as throughout the entire City of San Diego, it is important to provide public facilities and services as they are needed and in fact anticipate the need so as to not be in a continuous catch-up mode. Torrey Highlands Subarea's public facilities financing and phasing plan is structured to:

- Require public facilities and services to meet the needs of all residents.
- Provide for the convenient and efficient location of services and facilities.
- Provide for needed services and facilities within Torrey Highlands without undermining the tax base of surrounding communities.

Chapter Two

Open Space

CHAPTER TWO: OPEN SPACE

GOAL:

Contribute to a multi-purpose open space system that promotes regional resource protection and provides a critical connection to adjacent community open space.

2.1 IMPLEMENTING PRINCIPLES

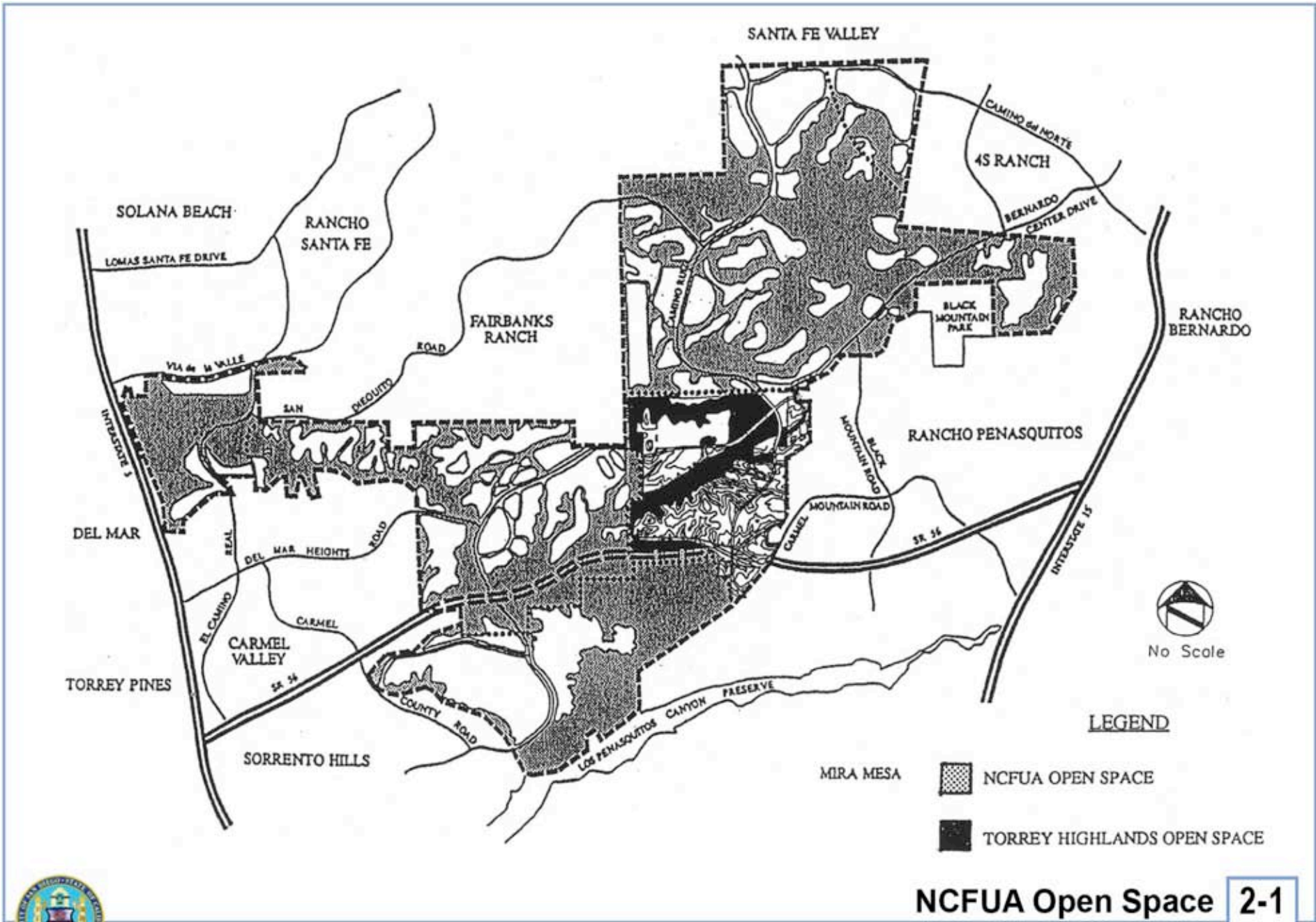
- Comply with RPO (or successor regulations), as well as the adopted MSCP and implementing ordinances, policies, regulations or alternative compliance provisions within development areas to maintain natural resources such as mature stands of native trees, seasonal stream courses, wetlands and significant landforms.
- Conserve biological resources consistent with the Multiple Species Conservation Program (MSCP) Preserve through the development of interconnected and viable habitat reserves, habitat restoration and enhancement.
- Define boundaries for the Torrey Highlands Preserve Segment which are consistent with the MSCP Preserve boundaries.
- Define and preserve an interconnected open space system within Torrey Highlands that links the larger regional open space systems including McGonigle Canyon, La Zanja Canyon, Deer Canyon, the San Dieguito River Valley Park, Black Mountain Regional Park, and Peñasquitos Canyon Reserve consistent with the MSCP.
- Integrate, where appropriate, passive recreation uses within the MSCP Preserve.
- Utilize mitigation concepts consistent with State of California guidelines to help ensure the conservation and enhancement of resource lands.

2.2 RESOURCE PROTECTION ORDINANCE

The City Resource Protection Ordinance (RPO), adopted in February 1989, is designed to protect sensitive natural resources. The Ordinance identifies sensitive lands such as hillsides, biologically sensitive areas, prehistoric and historic sites, wetland and wetland buffers, and floodplains and floodways.

All development within the City of San Diego must be reviewed to determine if a RPO Permit is needed. The intent of the ordinance is to limit development encroachment into designated sensitive areas and to establish the means by which encroachment is mitigated.

In January 1990, the City Council approved City Council Policy 600-40, directing how RPO analysis relates to the preparation and implementation of long-range plans such as Torrey Highlands. The Policy was created to:



NCFUA Open Space **2-1**
Torrey Highlands Subarea Plan **FIGURE**



- Ensure thorough analysis of site constraints and opportunities in the planning process.
- Aid in the review of subsequent permits and maps within the planning area.
- Ensure protection of environmental resources by preserving contiguous open space systems and providing mechanisms to acquire or protect those resources.
- Ensure that adopted land use policies and objectives are considered in the context of the suitability of the plan area for development.

The Plan was developed using the site constraints and opportunities for the project area. Development areas are designated based on suitability and open space areas (habitat linkages have been designated to ensure contiguous open space systems in the region). The Plan incorporates RPO planning guidelines in Appendix D of the Biological Resources Report: Restoration and Enhancement Plan (**Appendix C** of the Torrey Highlands Subarea Plan) which consolidates all on-site habitat restoration/mitigation projects into the MSCP Preserve. Because the MSCP Preserve area within Torrey Highlands consists mostly of disturbed habitats, the consolidation of potential mitigation areas within the MSCP Preserve provides a benefit to sensitive resource protection that would not occur if the plan area was developed on a parcel-by-parcel basis with individual RPO permits.

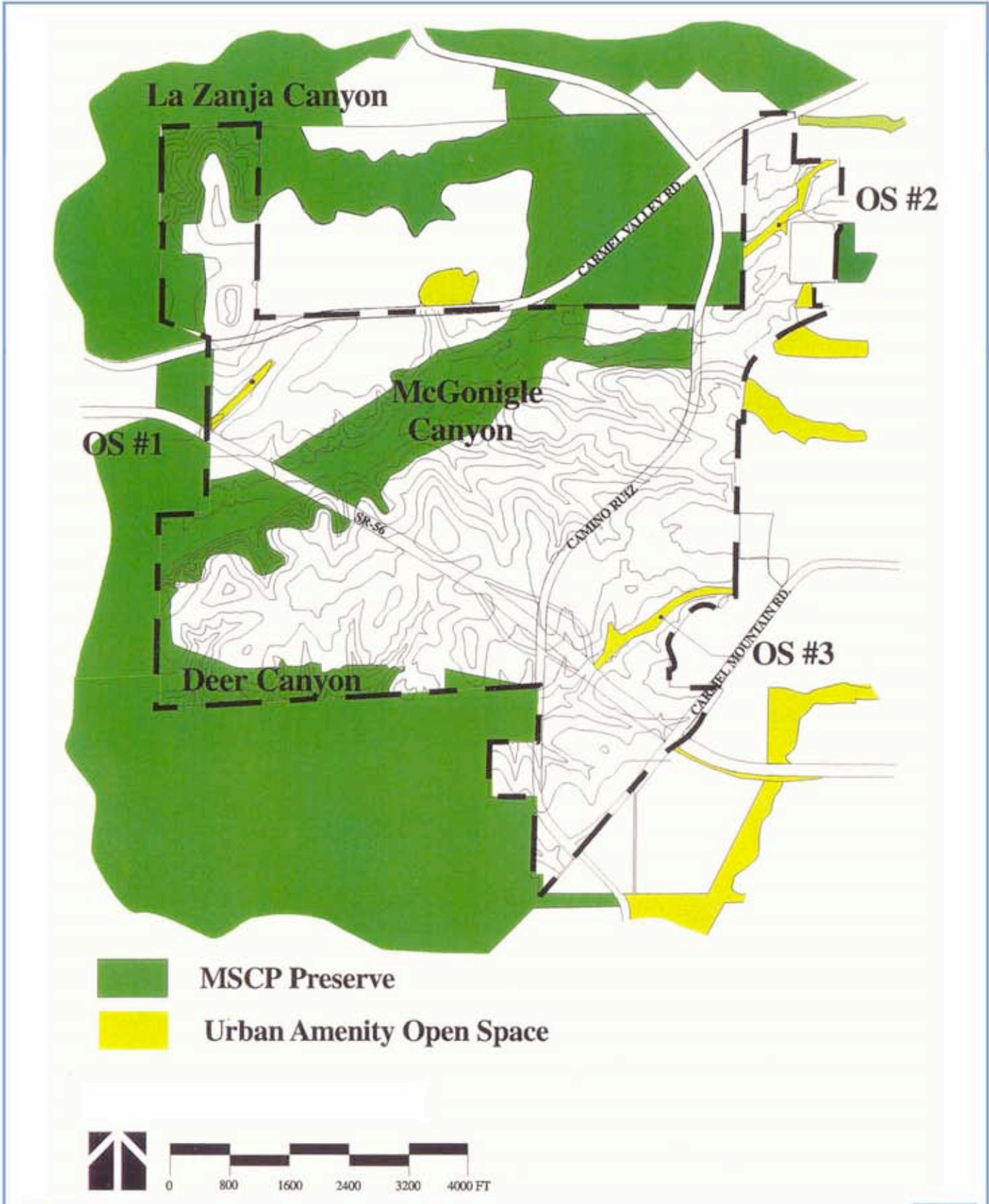
If future project or permit applications within Torrey Highlands are found to be consistent with this Plan, then future RPO permits may be approved using the substantial conformance determination referenced in the alternative compliance subsection of the RPO. Additionally, encroachment analysis for project or permit applications is unnecessary, so long as a substantial conformity determination is made by the decision-makers that the projects are consistent with the Torrey Highlands Subarea Plan.

2.3 ENVIRONMENTAL TIER

The Environmental Tier mapping project was conducted for the entire NCFUA as part of the Framework Plan planning process. The in-depth study was conducted and completed largely in conformity with the site suitability analysis criteria contained in City Council Policy 600-40. Additional criteria included wildlife corridor and habitat protection principles. The information was utilized as the basis for planning and locating an Environmental Tier.

When the City Council adopted the Framework Plan for the NCFUA, it concurrently adopted the Environmental Tier and approved the Framework Plan as the mechanism by which the RPO would be implemented and enforced within the NCFUA. The Framework Plan discussion of RPO concludes that:

- The Environmental Tier, if fully implemented, protects environmental resources and preserves a contiguous and interconnected open space system. The Environmental Tier and open space implementation policies provide objective criteria against which to review projects.



Open Space Map 2-2
Torrey Highlands Subarea Plan **FIGURE**

This Subarea Plan further refines the studies conducted for the Environmental Tier areas mapped in the NCFUA using the principles, policies and proposed regulations developed in planning for the MSCP Preserve (**Section 2.4.1**). The MSCP Preserve within Torrey Highlands reflects the previously delineated Environmental Tier. The Environmental Tier for Torrey Highlands is therefore equivalent to the MSCP area in Torrey Highlands and shall be hereafter referred to as the Torrey Highlands Preserve Segment or the Preserve. Torrey Highlands provides approximately 250-270 acres of the MSCP Preserve. Detailed biological information and a parcel-by-parcel evaluation of resource impacts are contained in the RPO analysis for Torrey Highlands as part of the Environmental Impact Report.

2.4 TORREY HIGHLANDS OPEN SPACE CONCEPT

As illustrated in **Figure 2-1**, the open space within Torrey Highlands is an integral part of the NCFUA open space network. The NCFUA open space for Subarea IV has been included as part of the Torrey Highlands Preserve Segment.

2.4.1 MSCP Preserve

The Multiple Species Conservation Program (MSCP) is a habitat conservation plan developed in accordance with Section 10(a) of the Federal Endangered Species Act and the state Natural Community Conservation Planning Act. With approval of the MSCP by federal and state authorities in March 1997, the City was granted an incidental take permit which allows landowners within the City to disturb the habitat of certain endangered, threatened and sensitive species in exchange for making long-term commitments to conserve habitat in an area known as the MSCP Preserve (also called the Multiple Habitat Planning Area [MHPA]).

2.4.2 Torrey Highlands Preserve Segment

The Torrey Highlands Subarea Plan Preserve incorporates MSCP lands which provide a large contiguous area of natural open space to support native plants and animals, as well as provide linkages between large areas of off-site natural open space areas.

The Torrey Highlands Preserve Segment, as illustrated in **Figure 2-2**, is generally defined by McGonigle Canyon in the central area, the upper reaches of La Zanja Canyon in the northwest area and Deer Canyon in the south area. The majority of the land within the Torrey Highlands Preserve Segment has been disturbed by past agricultural practices but also includes steep slopes, 100-year floodplains, view corridors, native vegetation, and non-native grassland. The Torrey Highlands Preserve Segment encompasses approximately 270 acres in Torrey Highlands.

Given the varied topography of Torrey Highlands, it is possible to describe the Torrey Highlands Preserve Segment in terms of unique topographic characteristics associated with the southern, central and northwestern regions of Torrey Highlands.

The key feature of the central region is McGonigle Canyon, which diagonally bisects the entire subarea from the southwest to the northeast and functions as a major wildlife corridor. In general, it is characterized by steep slopes and finger canyons along the south, with less steep slopes along the north. The spine of this portion of the Torrey Highlands Preserve Segment is defined by the 100-year floodplain. This area is designated as a regional wildlife corridor by the MSCP and is required to be no less than 1,000-feet in width, except for areas governed by special circumstances as referenced below.

The key features of the northwestern region are the upper reaches of La Zanja Canyon and a segment of the SDG&E easement. This portion of the Preserve Segment is dominated by steep slopes and is variable in width, with the exception of the southern leg of the region containing the SDG&E easement.

The southern region comprises the south-facing slopes and finger canyons within the northern limits of Deer Canyon that are dominated by chaparral and sage scrub and would connect with the major component of the MSCP Preserve within Del Mar Mesa.

The goal of the MSCP for the entire city is to have wildlife corridors of 1,000 feet or more. Exceptions may be accommodated where narrow widths are compensated nearby with required width and resource agencies concur. The Torrey Highlands Preserve Segment generally varies in width from 1,000 feet to 1,400 feet, with approximately 87 percent exceeding 1,000 feet in width.

2.4.3 Preserve Segment Requirements

In general, the Torrey Highlands Preserve Segment would consist of native vegetation with limited passive recreation activities such as trails allowed along the boundaries of the Preserve, and in limited areas within the Preserve to allow crossing between residential communities. The trails will generally follow the contours on the inside edge of the north side of the Preserve to avoid unnecessary grading. A trail will also follow the sewer trunk easement road located within the Preserve and a trail connection will be provided within the SDG&E easement near the southwest edge of Torrey Highlands.

As stated above, the goal for corridor width within the MSCP Preserve is 1,000 feet. The width is defined as the distance between the land use development areas (including Brush Management Zone 1) as shown on the land use plan. The Torrey Highlands Preserve Segment width will be wider in some areas and may be reduced to no less than 950 feet* in other areas if approved by the reviewing agencies and if offsetting mitigation is provided which increases preserve widths in offsetting locations or which otherwise promote the function of the MSCP Preserve.

* The only exception to the 950-foot width is on Parcel #306-011-07 which will have a minimum width of 900 feet. This is due to the “reasonable use” impacts which result from the proposed MSCP as it affects this parcel. This width has been accepted by the resource agencies (USFWS, CDFG) and will ensure that the subject property retains development potential.

Grading will be allowed in the limited areas shown on the Concept Grading Plan, **Figure 5-1**, within the perimeter areas of the Torrey Highlands Preserve Segment, provided the average slope ratio is no greater than 3:1 and the graded area is revegetated with native plant material consistent with the plant communities within the Preserve.

Brush Management adjacent to the Preserve shall be consistent with the following guidelines:

- Fuel management areas exist between all structures and the native vegetation of canyons and hillsides and are intended to preserve, protect and safeguard human lives and property and the natural habitat. Brush management shall comply with the City's Landscape Technical Manual and adopted MSCP Plan and implementing agreements.
- Zone 1 shall be 40 feet (30 feet if fire resistant architectural features are incorporated into the design of the structure). This zone shall consist of plant species adjacent to structures and be located entirely within the development areas as identified in the land use plans.
- Zone 2 and Zone 3 consist of selective thinning and pruning of native plant materials to reduce the fuel load. Any revegetation within these zones shall be achieved by using drought tolerant, fire retardant, low-growing plant materials that are visually and biologically compatible with the native vegetation. Where brush management is required adjacent to the Torrey Highlands Preserve Segment, alternative compliance should be used to minimize impacts that Zones 2 and 3 may cause within the Preserve. Examples of alternative compliance include: walls, increased development setbacks and fire resistant architectural features.

Specific guidelines for trails, edge treatments, erosion control and landscaping within the Preserve are discussed in **Chapter 5, Community Design Guidelines** and are also included in the City of San Diego MSCP Subarea Plan.

2.5 SUBAREA IV RESTORATION AND ENHANCEMENT PLAN

The Subarea Plan is intended to promote the restoration of native vegetation in the Torrey Highlands Preserve Segment to permit it to function as a wildlife corridor and to provide a mitigation program to accomplish this objective.

The biological impacts of the Torrey Highlands development plan would be mitigated on two levels. Initially, the Plan will refine and set aside the Environmental Tier as called for in the NCFUA Framework Plan and the MSCP Subarea Plan, as the Torrey Highlands Preserve Segment. Ultimately, actual losses of sensitive biological resources associated with future development projects within Torrey Highlands will be mitigated through a program consistent with the RPO (or successor regulations) and the adopted MSCP and implementing agreements, with priority for mitigation given to on-site

(Torrey Highlands) preservation and on-site (Torrey Highlands) restoration. Where on-site (Torrey Highlands) mitigation is not feasible, options for habitat acquisition funding and off-site (outside the Torrey Highlands Preserve Segment) will be provided.

2.5.1 Establishment of the Torrey Highlands Preserve Segment

The Torrey Highlands Open Space Plan (**Figure 2-2**) identifies the boundaries of the MSCP Preserve within Torrey Highlands. The acquisition of MSCP lands will be coordinated through various wildlife agencies and will be determined during the MSCP Planning process.

The California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS) have published specific mitigation banking guidelines. Upon MSCP or successor legislation, owners who place an easement over their lands may use this same land to mitigate for sensitive habitat on the remainder of their land and sell the balance for restoration and enhancement as described below.

2.5.2 Project-Level Mitigation

Project-level mitigation will be necessary to compensate for habitat losses which would result from development within Torrey Highlands. There will be a need for some property owners to realize value for land which cannot be developed within the Preserve and for others to acquire mitigation land as an offset for resource land which must be disturbed outside the Preserve.

Property owners within the Torrey Highlands Preserve Segment would be able to retain the ability to use their property for subsequent project-level mitigation outside the Preserve Segment as follows:

Existing habitats within the Torrey Highlands Preserve Segment will be available for sale as mitigation to compensate for disturbance to sensitive land within Torrey Highlands which fall outside of the Preserve Segment. Lands which have been designated for preservation within the Preserve Segment, but which do not currently support existing native habitat, could be restored and enhanced passively by the property owner over time. Once the land reaches the required percentage of native habitat restoration criteria, as described in Appendix D of the Biological Resources Report: Restoration and Enhancement Plan (**Appendix C** of this Plan), the area will be considered acceptable for use as mitigation land and included within the mitigation bank. This would provide property owners who have poor quality habitat within the Preserve Segment the incentive to maximize the habitat value of their site.

Alternatively, land which has been designated for preservation, but which does not currently support existing native habitat, could be used as mitigation provided that an active restoration program is pursued. The active program as outlined in

Appendix D of the Biological Resources Report: Restoration and Enhancement Plan (**Appendix C** of this Plan) would require more intensive efforts and greater bonding commitment in case of failure.

Mitigation credit will be provided for native habitat that is of equal quality or value to habitats that are being developed. Bonding will be provided to ensure that management measures, necessary to sustain the habitat value, are maintained.

The Torrey Highlands Subarea Plan is intended to actively promote the restoration of native vegetation in the Torrey Highlands Preserve Segment by providing incentives for on-site (Torrey Highlands) mitigation that offer the opportunity for private owners within the Preserve Segment to realize value for their property that has been designated as open space. The value realized would be directly related to the property owners' efforts to restore the habitat quality of their land so that its resource value qualifies as mitigation quality.

2.5.3 Mitigation and Restoration Coordination in Torrey Highlands

Restoration of the Torrey Highlands Preserve Segment is anticipated to occur naturally and be augmented or enhanced through implementation of revegetation efforts implemented either by the owners of Preserve lands or by project applicants needing to revegetate areas for mitigation. Restoration projects that occur within the Preserve would need to be linked, coordinated and compatible with other restoration efforts, as well as the adjacent natural areas. Site-specific restoration plans will follow the policy directions outlined in Appendix D Biological Resources Report; Restoration and Enhancement Plan (**Appendix C** of this Plan). All mitigation/restoration plans would be evaluated by the City and relevant resource agencies as part of the environmental review process for tentative maps. Each restoration plan will be required to demonstrate how it fits into the overall program for restoration of the Torrey Highlands Preserve Segment.

2.5.4 Mitigation Ratio Guidelines

The objective behind the MSCP Preserve is that the quality of the biological resources within this Preserve will exceed the collective value of the scattered and noncontiguous biological resources within the NCFUA area, even though in a few instances (such as some raptor species) reduction in habitat value may occur. Currently, as discussed earlier, the biological resources in the NCFUA and Torrey Highlands, in particular, are degraded and fragmented. Once fully restored, the overall biological resource value of Torrey Highlands Preserve, especially for scrub dependent species, is expected to exceed the value of the resources which now exist.

Due to low habitat value on-site, impacts to Diegan coastal sage scrub and scrub oak chaparral are anticipated to be mitigated at a 1:1 ratio. Mitigation for impacts

to southern willow scrub and mulefat scrub are anticipated to be mitigated at a 3:1 ratio. In addition, a 50-foot wide naturally vegetated biological setback and 50-foot transitional buffer should be provided from the edge of the southern willow scrub vegetation within the open space areas.

Thirteen vernal pools were observed within the project site and all will be impacted by the project as it is currently proposed; most of the impacts are due to roads planned by the City of San Diego. The replacement ratios for the vernal pools and associated watersheds harboring federal and/or state listed endangered species are anticipated to be 3:1 and must include pools with the impacted endangered species. The replacement ratios for the vernal pools that do not have any sensitive species associated with them are anticipated to be 1:1.

Impacts to the 25 acres of chamise and southern mixed chaparral that are considered significant because they occur in large blocks of contiguous habitat can be mitigated through preservation of any native habitat.

Impacts to wetlands are typically mitigated only by habitat creation, enhancement or restoration. For impacts to wetlands occurring outside of the MSCP Preserve, however, a combination of habitat restoration and habitat preservation will be permitted in Torrey Highlands. At a minimum, at least one acre of wetland habitat would need to be created for each acre impacted. Remaining mitigation requirements would, however, be allowed to be mitigated through wetland habitat acquisition to achieve the anticipated overall 3:1 mitigation requirement.

2.5.5 Mitigation Program and Options

At the project level, property owners impacting habitat in Torrey Highlands may provide mitigation from the following options, with the priority for on-site (within the Torrey Highlands Preserve Segment) mitigation:

- Acquisition and preservation of existing native habitat in the Torrey Highlands Preserve Segment.
- Restoration within the Torrey Highlands Preserve Segment.
- Acquisition and restoration within the MSCP Preserve but outside of Torrey Highlands at two times the mitigation ratio provided under **2.5.4 Mitigation Ratio Guidelines**.
- Payment of fees into a habitat acquisition fund if mitigation requirements are less than ten acres.

The requirement for two times the prescribed mitigation ratios for off-site (outside the Torrey Highlands Preserve Segment) will be waived upon finding that on-site (within the Torrey Highlands Preserve Segment) is infeasible.

Torrey Highlands Acquisition and Preservation

A number of areas within the Torrey Highlands Preserve Segment currently support functional sage scrub, chaparral, native grasslands and wetland habitats. Other areas within the Preserve Segment are not yet good quality habitat but may naturally succeed to functional habitats by the time that mitigation lands are sought. Mitigation credits for these areas could be sold by the land owners to those seeking credits for comparable quality vegetation.

Torrey Highlands Restoration

A significant portion of the Torrey Highlands Preserve Segment supports nonnative grassland and ruderal vegetation. These areas historically supported native habitats, and are well suited as potential restoration sites for sage scrub, chaparral, native grasslands and wetland habitats. Mitigation credits within the Preserve Segment may be created through two primary methods: enhanced natural recovery or active restoration.

If sufficient credits have not become established through natural recovery to offset the impacts associated with a specific development proposal, non-native areas within the Preserve Segment could be revegetated by hydroseeding, use of the duff reapplication method, or other appropriate methods intended to result in a more rapid establishment of the desired native vegetation. Appendix D of the Biological Resources Report: Restoration and Enhancement Plan (**Appendix C** of this Plan) contains a discussion of the key components of future revegetation plans including site selection and preparation, plant species, installation and follow-up monitoring and maintenance requirements.

Acquisition and Restoration Within Proposed MSCP Preserve, Outside of Torrey Highlands

Should on-site compensation be infeasible, mitigation could be accomplished off-site (outside of Subarea but within the MSCP Preserve) by preserving an appropriate amount of comparable quality vegetation in an appropriate location per MSCP/RPO guidelines. This would focus on land within the MSCP Preserve outside of Torrey Highlands. Mitigation could also be achieved by revegetating disturbed land off-site with the appropriate amount of native vegetation.

Payment of Fees into a Habitat Acquisition Fund

Property owners may contribute into an acquisition fund where mitigation requirements are less than ten acres. The fund may be established to allow the developer of an individual property with impacts to sensitive habitats to pay a fee for habitat acquisition in lieu of outright purchase of a portion of the MSCP Preserve. This would have the advantage of being able to pool financial resources from several property owners within Torrey Highlands in order to acquire larger

portions of the MSCP Preserve. The fee will be determined by the City of San Diego, and be based on the appraised value of the properties within a similar geographic area of the MSCP Preserve.

Additional Mitigation Requirements

In addition to the aforementioned mitigation requirements, other mitigation measures may be required in order to address those indirect impacts of development which have the potential to adversely affect the viability and effectiveness of the MSCP system.

Appropriate fencing or other barriers to be reviewed at the specific project level may be required to control access to the Preserve Segment from human and domestic animal intrusion but fencing will be located so as to allow for continued wildlife movement through the Torrey Highlands Preserve. Fencing, or other types of barriers constructed as backyard fencing for development areas, will normally be sufficient.

Equestrian and hiking trails will be located to minimize impacts to areas supporting sensitive biological resources.

Lighting within development projects adjacent to conserved habitat will be selectively placed, shielded, and directed away from all habitat. In addition, lighting from homes abutting conserved habitat will be screened with vegetation, and large spotlight-type lighting that may affect conserved habitat will be prohibited. These regulations will be incorporated into project CC&Rs.

Property owners who own land within the Torrey Highlands Preserve Segment shall not disturb any land within the Preserve boundary. Any planting that occurs within the Preserve must consist of plant materials that are compatible with the native plant communities within the Preserve as part of an approved revegetation/restoration plan. Long-term maintenance of the lands within the Torrey Highlands Preserve Segment shall be the responsibility of the owner(s) in fee title. An alternative method of comprehensive revegetation may be accomplished through a Landscape Maintenance District.

2.6 URBAN AMENITY OPEN SPACE

Open space amenities, as illustrated in **Figure 2-2**, are located within developed areas of the community and include active and passive open spaces that are not part of the Torrey Highlands Preserve Segment. Passive open spaces outside of the Preserve retain the character of existing resources located inside of the Preserve and/or provide connections to off-site open space areas. These open spaces shall preserve and integrate an estimated 11 to 12.5 acres of existing riparian habitat beyond those designated in the Preserve. Fifty-foot biological buffers and 50-foot planning buffers shall be established adjacent to the preserved riparian habitat to protect the wildlife value of these areas. The biological

buffer will be left in a native state, while the planning buffer may include fuel modification zones and passive recreational uses. Fencing shall be installed along the outside edge of the biological buffer near private residences or where otherwise deemed necessary and appropriate.

2.6.1 Urban Open Space Policies

- Provide safe and convenient pedestrian paths and bikeways that connect open spaces, schools, parks, commercial areas and residential areas.
- Provide open space amenities to retain the character of existing resources and to provide connections to off-site open space areas.
- Preserve riparian habitats within the open space amenities by maintaining a 50-foot biological preservation buffer and a 50-foot transitional planning buffer; only native or existing vegetation shall be allowed in the biological buffer; fuel modification and passive recreation are permitted within the planning buffer; contour grading is permitted only within the transitional planning buffer, but should be limited as much as practical.
- Avoid direct impacts to wetlands to maximum extent practicable; impacts shall be fully mitigated and limited to road crossings and other essential services (i.e. gas, water and sewer lines).

2.6.2 Urban Open Space Features

Open space amenities are intended to achieve at least one of the following purposes:

- Retain unique topographic features and mature stands of trees.
- Provide open space connections to off-site open space areas.
- Protect and preserve watercourses and wetland habitat occurring outside of the Torrey Highlands Preserve.

Three areas within Torrey Highlands have been designated as open space amenities and are identified as OS #1 through #3 in **Figure 2-2**. Guidelines for trails, edge treatments and landscaping within urban open space are discussed in **Chapter 5, Community Design Guidelines**.

Open Space Amenity #1 is located south of Carmel Valley Road, near the western boundary of Torrey Highlands. This feature contains a seasonal drainage way and wetlands vegetation which continues off-site to the west into the MSCP Preserve within the Pacific Highlands Ranch.

Open Space Amenity #2 is in the northeast section of Torrey Highlands between Camino Ruiz and the eastern boundary of Torrey Highlands. This open space contains a seasonal drainage way and some wetland vegetation. An unpaved

equestrian trail is proposed to connect with the Rancho Peñasquitos open space system and Black Mountain Regional Park.

Open Space Amenity #3 is in the southeast portion of Torrey Highlands, north of SR-56, south of Mesa Verde Middle School, and east of Camino Ruiz. This open space contains a seasonal drainage way.

All three open space amenities will be subject to City, state and federal regulations governing wetlands.

Chapter Three

Circulation

CHAPTER THREE: CIRCULATION

GOAL:

Ensure a safe and efficient transportation system that integrates within the existing regional system and minimizes impacts to residential neighborhoods and environmentally sensitive areas.

3.1 IMPLEMENTING PRINCIPLES

- Provide for a transit center which will encourage the use of alternative forms of transportation such as public transit, car/van pools and other transportation demand management measures to reduce both roadway congestion and pollution.
- Provide a system of trails, bikeways and pedestrian facilities that is the focal point of the community, links community activity centers and encourages alternatives to automobile use.
- Ensure timely provision of a local circulation system to accommodate planned growth at acceptable levels of service.
- Provide a land use pattern and circulation system that optimizes potential opportunities for transit use.
- Provide for future transit use along Carmel Valley Road and SR-56.

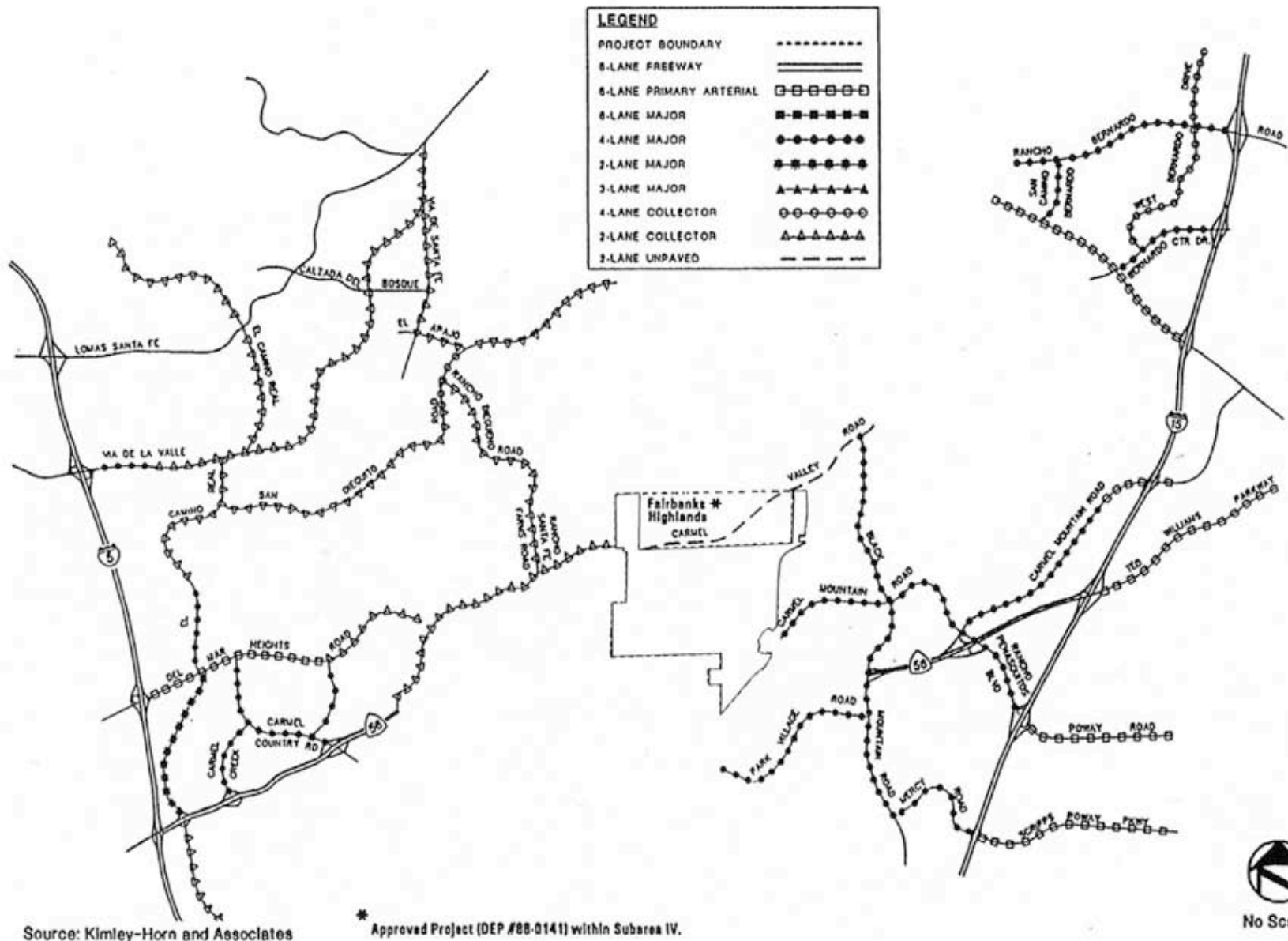
3.2 REGIONAL CIRCULATION

Freeways: Torrey Highlands is centrally located between Interstate 5 (I-5), four miles to the west, and Interstate 15 (I-15), 2.5 miles to the east (**Figure 3-1**). The freeways are part of the major north/south circulation system in San Diego County and accommodate more than 500,000 average daily trips (ADT). State Route 56 is ultimately planned as a six-lane freeway connecting I-5 and I-15 through the NCFUA. Segments of SR-56 to the west (in Carmel Valley) and to the east (in Rancho Peñasquitos) are completed. Through Torrey Highlands, SR-56 is estimated to carry between 69,000 and 95,000 ADT under cumulative buildout conditions (2012).

Major Roads: Circulation roads within Torrey Highlands which provide connections to adjacent communities include Carmel Mountain Road, Camino Ruiz and Carmel Valley Road.

3.3 TORREY HIGHLANDS CIRCULATION

As illustrated in **Figure 3-2**, the Torrey Highlands Circulation Plan identifies an alignment for SR-56, as well as alignments for major roadways and collectors.



Source: Kimley-Horn and Associates

* Approved Project (DEP #88-0141) within Subarea IV.



Existing Regional Circulation

3-1

Torrey Highlands Subarea Plan

FIGURE



3.3.1 Circulation Roads

State Route 56 Freeway

The approved alignment for SR-56 bisects Torrey Highlands in a northwesterly direction. This freeway will ultimately accommodate six travel lanes, with interchanges located at Camino Ruiz and at Camino Santa Fe in Pacific Highlands Ranch (Subarea III). Initially, SR-56 will be constructed as a four-lane freeway and will include the completion of the interchange at Black Mountain Road and a bike path running adjacent to the south side of the freeway.

Major Roads

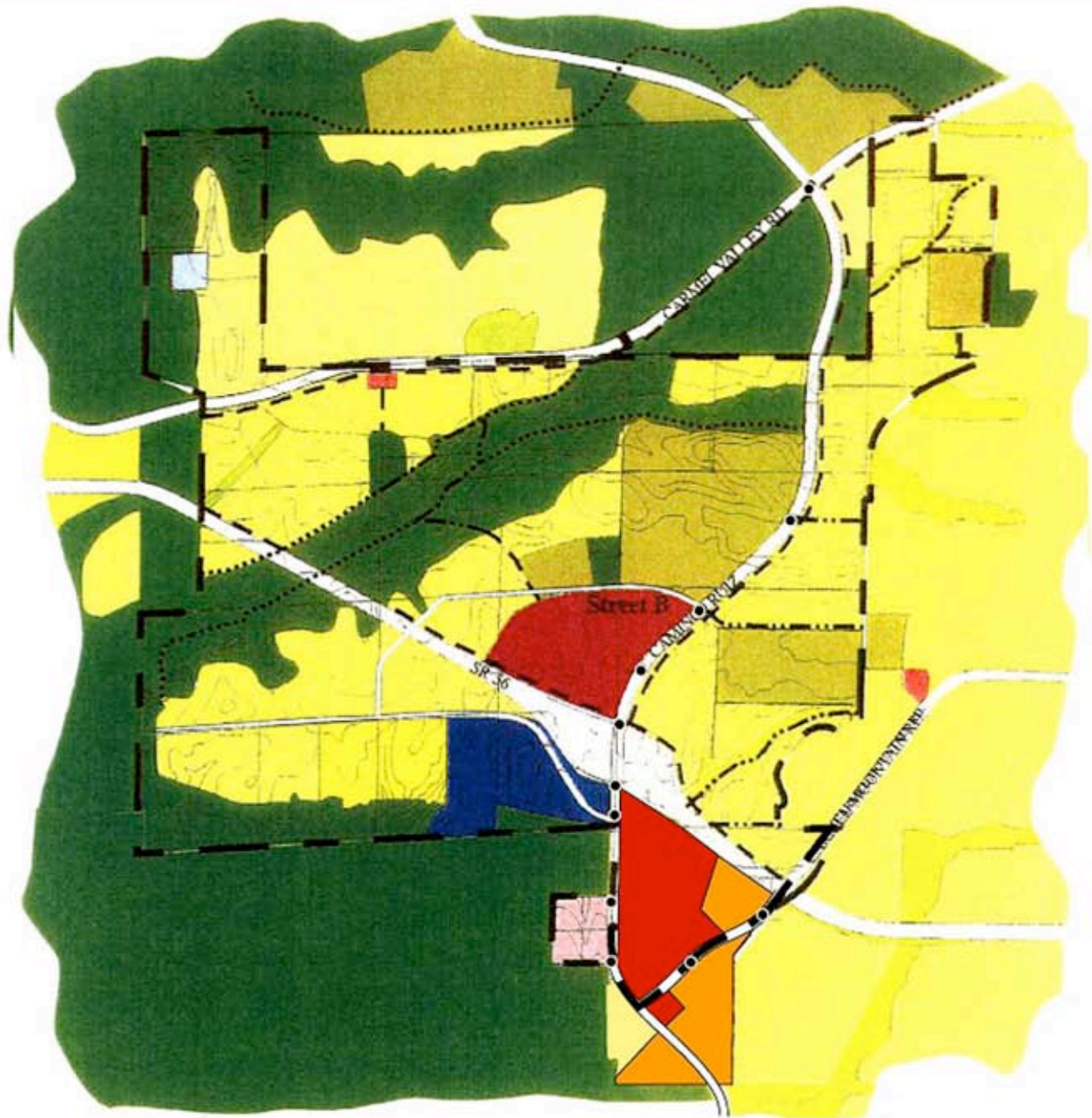
Camino Ruiz is a north/south road located in the eastern third of Torrey Highlands, serving both local and regional demands. The road will continue north of Torrey Highlands to serve as one of the major north/south arterials between I-5 and I-15 serving the mid-county area. An interchange is proposed at SR-56. Within Torrey Highlands, Camino Ruiz is planned as a six-lane major road from Carmel Valley Road to the southernmost project access road (i.e. “B” Street south).* Between the southernmost project access road and the primary Regional Commercial access, Camino Ruiz will be planned as a six-lane primary arterial. North of Carmel Valley Road and south of SR-56, the road transitions from Carmel Valley Road to a four-lane major road. Camino Ruiz will provide access to SR-56 for the southwest portion of Rancho Peñasquitos. Estimated ADT ranges from 22,000 to 41,000 north of SR-56, and 10,000 to 27,000 south of SR-56.

Carmel Valley Road is designated as a four-lane, east/west major roadway within the northern half of Torrey Highlands, which will ultimately extend from Del Mar Heights Road and Camino Santa Fe on the west to Camino del Norte in the east. Several Torrey Highlands neighborhoods will take direct access from Carmel Valley Road. While the road will be constructed for four lanes, right-of-way sufficient for six lanes will be reserved to include two lanes for future transit use. Estimated ADT through Torrey Highlands is approximately 22,000.

Del Mar Heights Road is the western extension of Carmel Valley Road that occurs off-site within the western portion of Subarea III and the community of Carmel Valley. The road ultimately provides a connection with I-5 and the City of Del Mar to the west. Estimated ADT on Del Mar Heights Road east of El Camino Real is between 24,000 and 33,000 ADT. West of El Camino Real and east of I-5, ADT reaches 41,000 to 43,000.

Carmel Mountain Road is designated as a four-lane major roadway that connects Rancho Peñasquitos in the east to Camino Ruiz, south of SR-56.

* Camino Ruiz will initially be constructed to a maximum of four lanes, with two additional lanes of ROW provided in the median should traffic counts require future road expansion to six lanes.



- Improved Multi-Purpose Trail
 - Un-Paved Trail
 - Paved Trail
 - Traffic Signal
- For Land Use Designations see Figure 4-3*



Trails and Circulation Map 3-2
Torrey Highlands Subarea Plan **FIGURE**

Collectors (as illustrated in **Figure 3-2**)

Collector streets are required to accommodate projected traffic volumes within Torrey Highlands to carry traffic onto the major circulation streets.

Street “A” is a two-lane collector which will serve the Employment Center and the surrounding residential areas. Full access is available at Camino Ruiz.

Street “B” is a four-lane collector located along the northern edge of the Local Mixed Use Center. It serves the Local Mixed Use Center, neighborhood park, elementary school and the surrounding residential areas. Street “B” will be extended over SR-56 as a two-lane collector road to provide a direct connection between the residential uses planned south of SR-56 and the public facilities planned north of SR-56.

Local Streets

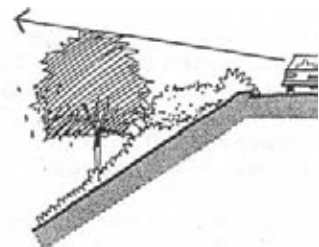
Street patterns within each area or neighborhood of Torrey Highlands will vary in response to site features, topography, and land use types and organizations.

Chapter 4, Land Use and **Chapter 5, Community Design Guidelines** provide guidance that will integrate sufficient density levels and varied housing types to arrive at a fine grain mix of residential development. Based on the projected traffic volumes, future residential streets will be local streets and will be part of an integrated system comprising roads, bike paths and pedestrian ways. Where possible, single-loaded streets adjacent to the proposed MSCP Preserve will provide additional buffer to the open spaces and provide view opportunities from the public right-of-ways. Although precise locations and layout of local streets will be determined as part of subsequent site-specific development proposals, a grid pattern or modified-grid pattern will be used where topography allows to promote alternate routes to each destination (see illustrations in **Chapter 5, Community Design Guidelines**). Major residential collectors are limited to those discussed above and shall not bisect neighborhoods. Cul-de-sacs are encouraged.

When the very low-density area adjacent to the proposed MSCP Preserve on the western edge of the Northern Neighborhood is developed, local circulation should be designed to provide access to four

existing residences on Mira Zanja Corte. This would allow the possible vacation of the east/west portion of Mira Zanja Corte that currently crosses the proposed MSCP system if at some point in the future the present nursery uses that utilize that east/west road are abandoned.

Single loaded streets adjacent to proposed MSCP Preserve



SIGNALIZED INTERSECTION

LOCAL MIXED USE

EMPLOYMENT CENTER

FORMAL STREET TREES

5' WIDE SIDEWALK

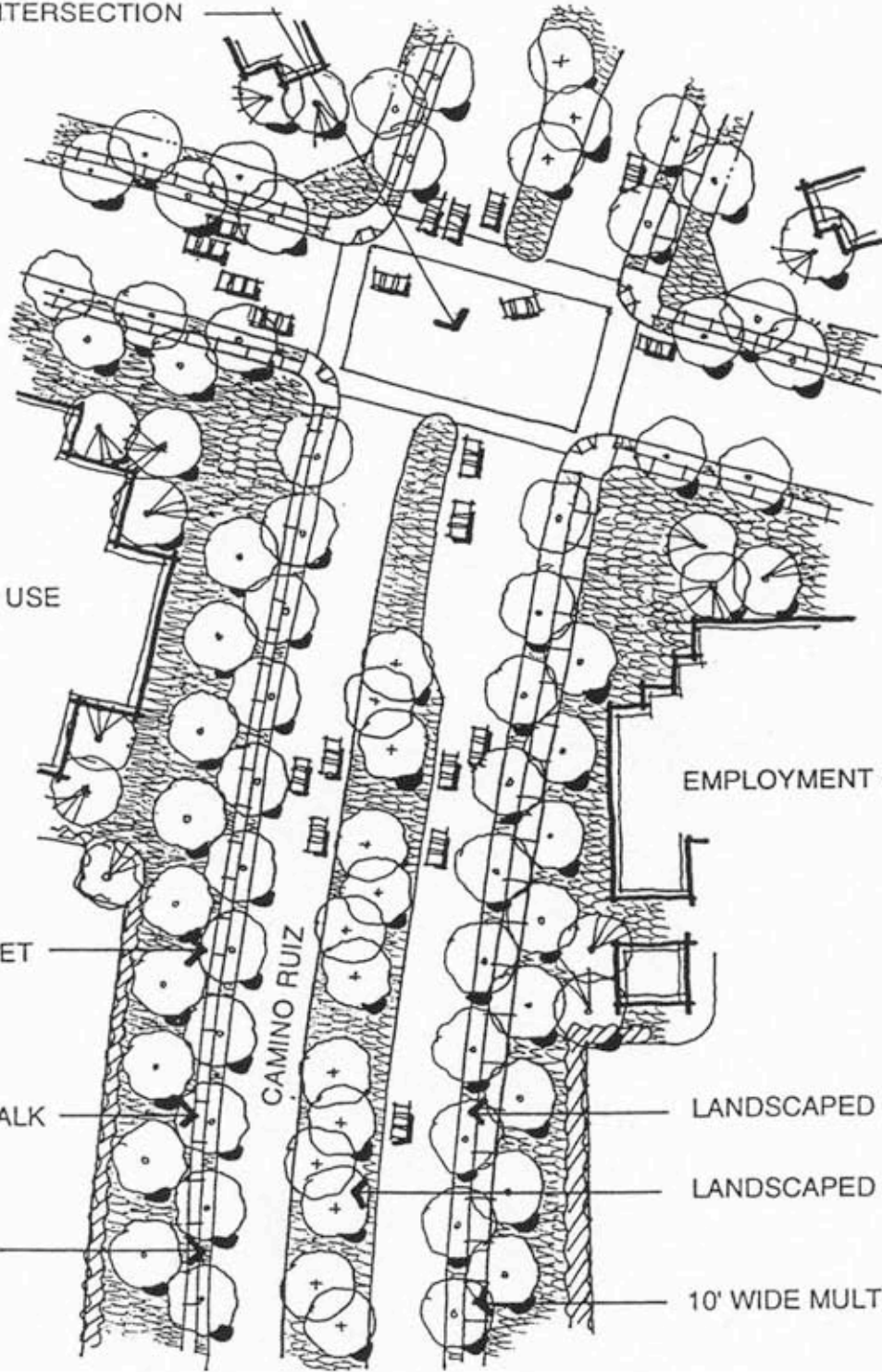
LANDSCAPED PARKWAY

CAMINO RUIZ

LANDSCAPED PARKWAY

LANDSCAPED MEDIAN

10' WIDE MULTI-USE TRAIL



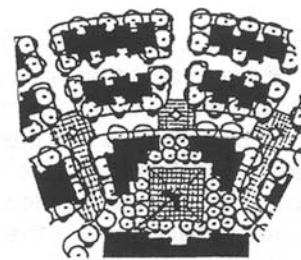
Neighborhood Circulation Concept 3-3

Torrey Highlands Subarea Plan **FIGURE**

3.3.2 Circulation Policies

- Contribute fair share financing for transportation facilities necessary to serve demand created by Torrey Highlands, as provided for in the Torrey Highlands Public Facilities Financing Plan.
- Continue discussions with Metropolitan Transit Development Board (MTDB) and enlist the agency's support to find ways to provide for transit infrastructure and operations.
- Limit points of ingress and egress to neighborhoods from Carmel Valley Road and Camino Ruiz to those designated on **Figure 3-2**, or as approved by the City Engineer, which will optimize traffic flow.
- Prohibit parking on arterial and major circulation element roads.
- Accommodate wildlife corridors and under crossings through road design and alignment considerations.
- Within the LMXU, design a neighborhood street hierarchy based on a modified grid system, that provides alternate routes and connections to schools, parks and neighborhood focal points; provides for pedestrian, bicycle (and, where appropriate) equestrian trails; and minimizes cul-de-sacs.
- Design roadways to minimize grading and the height of cut-and-fill slopes.
- Design the LMXU and neighborhood streets to be pedestrian-oriented by incorporating narrower street widths, smaller radius curbs, wider sidewalks, street furniture, and street plant species.

Pedestrian-Oriented Streets

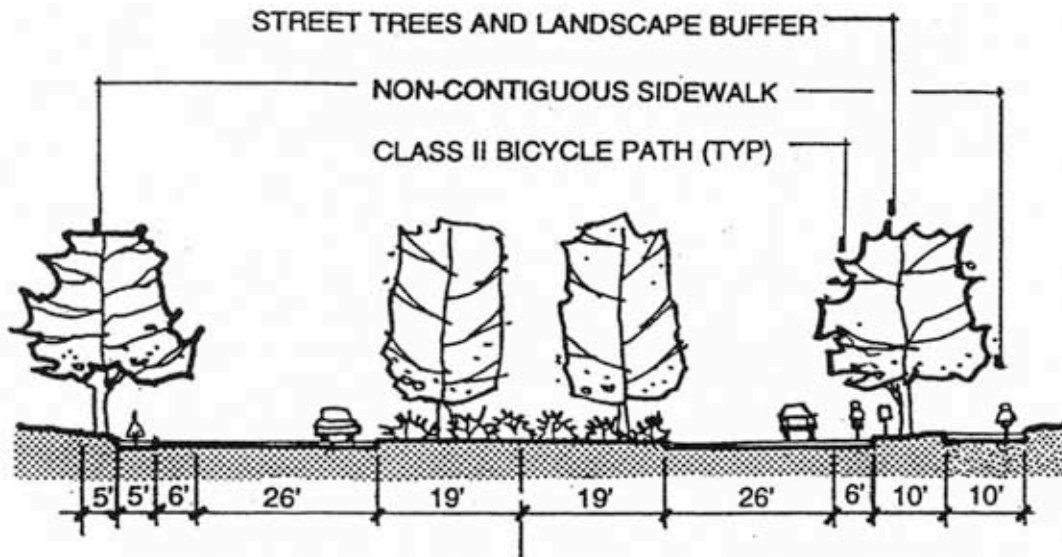


For additional design criteria, see residential and circulation design policies in **Chapter 5, Community Design Guidelines**.

3.4 TRANSPORTATION ALTERNATIVES

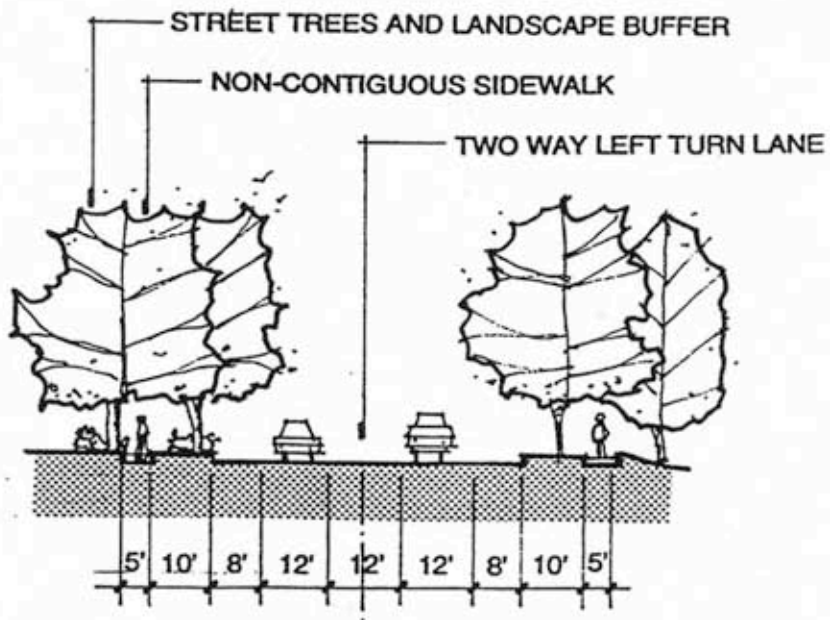
3.4.1 Trails

A system of regional and local bicycle/pedestrian/equestrian trails and paths are incorporated as a critical component of the Plan. The trail system includes paved pedestrian trails, improved multi-purpose trails (pedestrian, bike and equestrian trails), and unpaved equestrian and hiking trails.



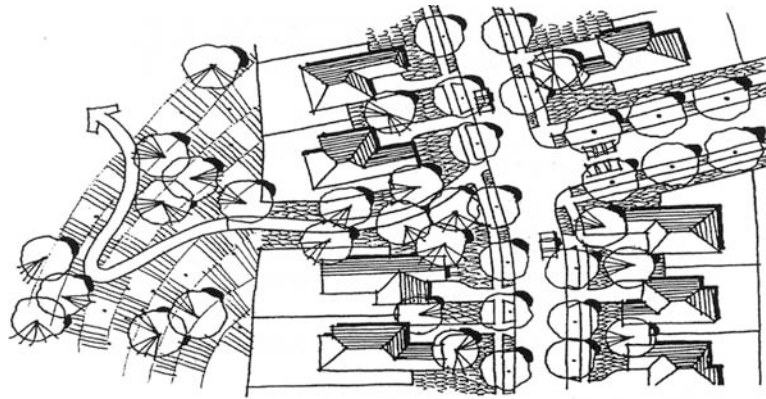
CENTER MEDIAN RESERVED FOR FUTURE TRANSIT

Carmel Valley Road (View to East)



Two Lane Collector





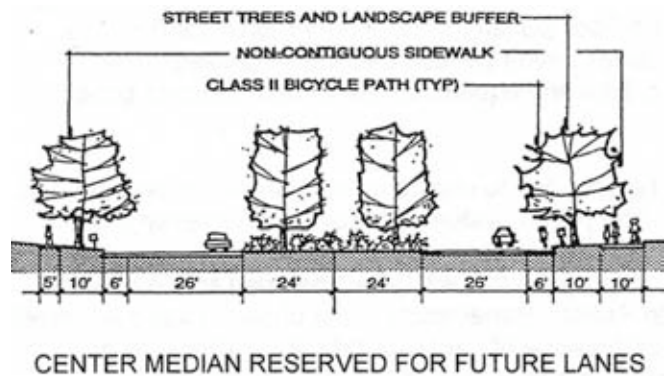
Trail connection to the proposed MSCP Preserve

Several connections will be provided to enable users to easily move from one trail system to the other. The paved system will provide linkages with Black Mountain Ranch, Rancho Peñasquitos, and developed areas including the

LMXU. The improved multi-purpose trail will follow the open space amenity areas and also connect to Rancho Peñasquitos. The unpaved trail system will generally be located along the edge of the north side of the Preserve and along utility easements within the Preserve. It will provide linkages to the proposed San Dieguito River Valley Park in La Zanja Canyon, the MSCP Preserve within Subarea III and Black Mountain Ranch, and selected neighborhood parks. **Figure 3-2** illustrates the trail system.

Paved

Class II bicycle lanes will be provided within the right-of-way of Camino Ruiz and Carmel Valley Road. Paved paths that will accommodate pedestrians and bicycles will occur along the east side of Camino Ruiz and the south side of Carmel Valley Road. These paved paths are ten feet in width, and must be within the 20-foot landscaped parkway. The trails will be buffered from street traffic by plant species of street trees and low-growing shrubs within the parkway. The street tree locations within the parkway and sidewalk alignment must be approved by the City Engineer to ensure that the required site distances are provided. The paved trails which are constructed with SR-56 should be located on the north side of the freeway to allow access to the community. The paved trails will connect to the sidewalks as part of the local street system, as well as the unpaved trails which are part of the open space system. By incorporating a comprehensive trail system, each neighborhood of Torrey Highlands will have access to the Local Mixed Use Center, schools, neighborhood parks and other public facilities and community focal points.



Camino Ruiz (View to North)

Improved Multi-Purpose

Unpaved trails which consist of compacted decomposed granite (or similar material) will be provided to accommodate pedestrians, bicycles and strollers, and will be ADA compliant. These trails will connect with the existing cul-de-sacs that are adjacent to Torrey Highlands in Rancho Peñasquitos. Compacted material trails will also be used in limited locations within the Torrey Highlands Preserve Segment to provide ADA access to portions of the Preserve.

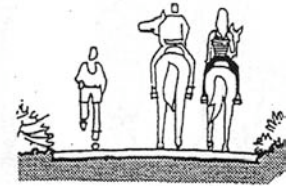
Unpaved

Unpaved, multi-purpose trails occur within the Torrey Highlands Preserve to accommodate hiking, biking and equestrian travel. The trails will generally follow the contours along the inside edge of the north side of the Preserve to avoid unnecessary grading. A trail will also follow the sewer trunk easement access road located within the Preserve and a trail connection will be provided within the SDG&E easement near the southwest edge of Torrey Highlands. Where the Torrey Highlands Preserve branches, near the high school, the trail shall follow the south edge of the

Preserve to provide access to the adjacent high school.

An unpaved trail will be allowed within the Carmel Valley Road under crossing.

Unpaved trails throughout the Preserve



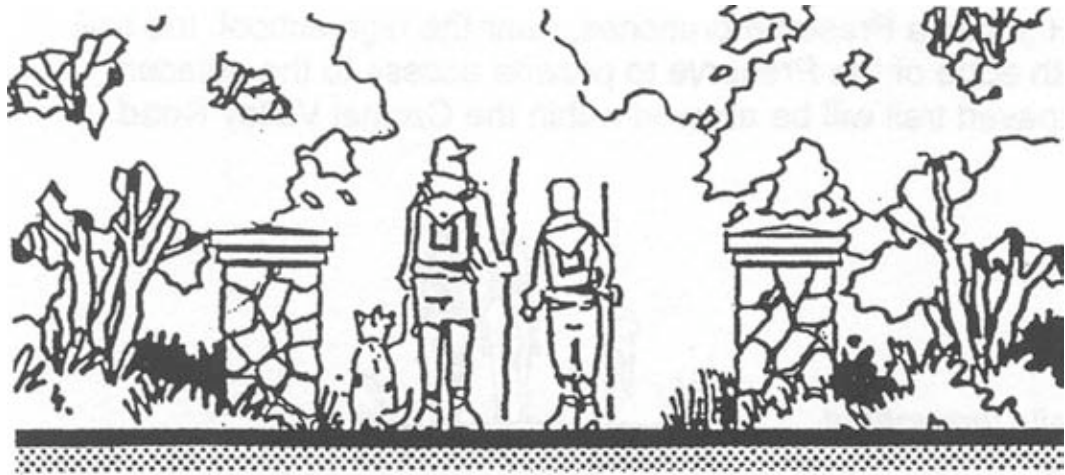
During subsequent discretionary review, all trails within the Preserve will be aligned based on the trail system adopted in this Plan to avoid impacts to existing sensitive species. The unpaved trails will provide linkages between the central, northern and eastern neighborhoods by permitting crossings of the Preserve at specific locations. A single small bridge shall be provided for a crossing in the bottom of the canyon. The bridge shall be located to avoid impacts to sensitive vegetation and its design shall require environmental review. The exact location of the crossings should also coincide with utility easements that will be required for connecting sewer pipes to the existing sewer trunk.

As recommended in the City of San Diego MSCP Subarea Plan, public education shall be a component of all preserve recreational activities. Unpaved trails within the Torrey Highlands Preserve shall include interpretive signs to inform the pedestrians about the purpose of the Preserve and also to identify the natural flora and fauna, consistent with MSCP trail policies.

Unpaved trails will also be provided in the open space amenity areas including one located north of Adobe Bluffs Elementary School (Open Space #2) and another east of Camino Ruiz near the SR-56 interchange (Open Space #3). These open spaces are discussed in more detail in **Chapter 2, Open Space**.

3.4.2 Trails Policies

- All neighborhoods will be connected by a system of trails.
- Link the trails and paths in Torrey Highlands with trails and paths located in adjacent communities and surrounding regional systems, as designated in this Plan.
- Provide paths that connect residential areas to the LMXU to encourage alternate means of travel.
- Design pathways that provide through connections and/or loops.
- Post signage at regular intervals along the trails to inform pedestrians, equestrians and bicyclists of correct trail use.
- Design trail drainage inlet grates, manhole covers, etc. to avoid injuries to trail users.
- Provide at-grade trail crossings at signalized intersections.
- Locate bicycle storage facilities within the LMXU, at transit stations and bus stops.
- Locate all paved trails in public right-of-ways and unpaved trails in open space areas.



Trail identification signage

3.4.3 Transit System

Bus transit plans for the Torrey Highlands area will be coordinated with the Metropolitan Transit Development Board (MTDB) to strongly encourage bus service at the earliest stages of development for area residents. Transit facilities such as waiting areas, shelters and commuter park-and-ride parking areas shall be provided by developments as deemed appropriate by MTDB.

3.4.4 Transit System Policies

- Provide for possible transit/bus shelters along major roads adjacent to the LMXU and near the Employment Center, and public facilities.
- Integrate transit stops into the LMXU and ensure direct connections from the station to the center of the mixed-use area.
- Design transit shelters that are user friendly and architecturally compatible with surrounding neighborhood character/theme.
- Locate bicycle storage facilities at shelter facilities.
- Provide transit stops at major cross streets along Carmel Valley Road.

Chapter Four

Land Use

CHAPTER FOUR: LAND USE

GOAL:

Create a community that is a step toward implementing the concept of a neo-traditional community as described in the Framework Plan, incorporating planning, design and transportation principles to promote multi-modal transportation options, and which is designed around a functional open space system.

4.1 IMPLEMENTING PRINCIPLES

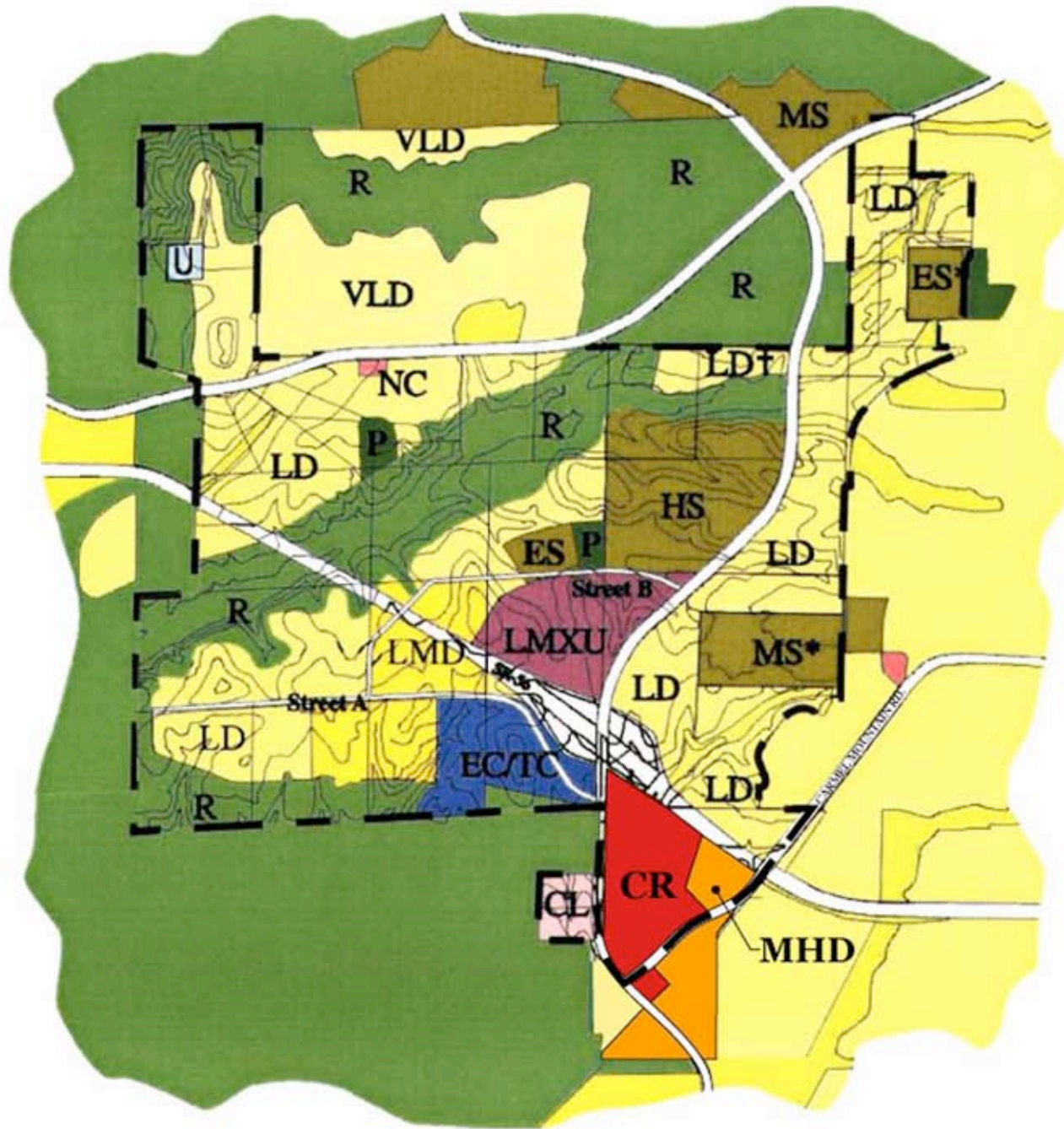
- Provide a critical corridor for the regional MSCP open space system that serves as a wildlife linkage between regional parks and preserves, as well as a multi-resource habitat preservation area.
- Create neighborhood focus through the use of pedestrian oriented design principles including narrow streets, cul-de-sacs, shallow setbacks, alternative route selection, and circulation patterns which emphasize bicycle, equestrian and pedestrian trails as the focal point of the community.
- Provide an employment center as a means to create a balance between the provision of new housing and the creation of places where those residents may work.
- Provide housing units available to families with median incomes substantially below the regional average as provided for in the NCFUA Framework Plan.
- Incorporate the City of San Diego Transit Oriented Design Guidelines to reduce the dependency on private automobiles and encourage alternative forms of transportation such as walking, bicycles, equestrian and possibly mass transit.

The land use patterns and guidelines set forth in this section have been established to provide for the orderly development of the Torrey Highlands community. They are intended to guide development while providing flexibility throughout the long-term buildout of the subarea. The description of land uses and land use siting policies address the arrangement of commercial, residential and employment center uses consistent with the intent, purpose and goals of the General Plan, as amended by the NCFUA Framework Plan. Development of the Torrey Highlands Subarea Plan is specifically intended to build upon the Framework Plan land use map and policies and to establish compatible relationships among land uses.






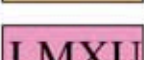
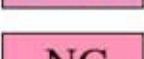
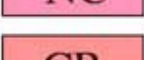
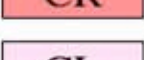
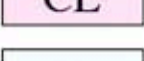
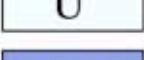
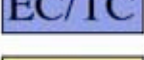





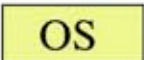
4.2 LAND USE DESIGNATIONS

4.2.1 Land Use Plan

The Torrey Highlands Land Use Plan is depicted in **Figure 4-1**. The land use legend is **Figure 4-2**. The land use designations and recommended uses for each category are described in **Table 4-1**. **Table 4-2** summarizes land use acreage.



Land Use Plan 4-1
Torrey Highlands Subarea Plan **FIGURE**

	VLD	Very Low-Density (Less than 1 D.U./Gross Acre)
	LD	Low-Density (2.5 D.U./Gross Acre)
		Future Low-Density
	LMD	Low Medium-Density (5-10 D.U./Gross Acre)
	MHD	Medium High-Density (20-40 D.U./Gross Acre)
	LMXU	Local Mixed Use
	NC	Commercial Neighborhood
	CR	Commercial Regional
	CL	Commercial Limited
	U	Utilities
	EC/TC	Employment Center/Transit Center
	HS	High School*
	MS	Middle School
	ES	Elementary School*
	P	Neighborhood Park
	R	Resource (Proposed MSCP Preserve)
	OS	Open Space
		25-Foot Contour

* Elementary School and High School designated as LD for underlying land use. Development of the school sites as LD will require a rezoning.



**TABLE 4-1
TORREY HIGHLANDS LAND USE DESIGNATIONS AND USES**

Land Use	Recommended Uses	Comments
Commercial Areas		
Local Mixed Use Center (LMXU)	<p><u>Commercial</u>: Major grocery and drug stores, pedestrian-oriented shops and stores including restaurants (no drive-through type uses allowed in this area).</p> <p><u>Civic</u>: Small postal services and non-profit and government services, plazas and village greens.</p> <p><u>Residential</u>: Multifamily housing and mixed-use residential units interspersed with ground floor commercial.</p>	<ul style="list-style-type: none"> • The LMXU is 43.5 acres including 132,000 SF of commercial and up to 465 residential units. • PDP required. • Trails and pedestrian links to residential areas are required to be integrated with LMXU. • Pedestrian-oriented design techniques as adopted by the City of San Diego including architectural interest, landscaped pedestrian walks and outdoor sitting areas.
Commercial Regional (CR)	Commercial Regional includes a broad range of commercial uses including: neighborhood-serving commercial, area-serving retail, automotive service, commercial recreation facilities, visitor-serving commercial and offices. (See page 52 for limitations.)	<ul style="list-style-type: none"> • PDP required. • Final SR-56 alignment required prior to discretionary approval for development. • Commercial provides space for large-scale uses which require sites primarily served by vehicular access. • 35-acre site with 250,000 SF of commercial and 275,000 SF of self storage. • 2-acre site with 10,000 SF of commercial not to exceed 6,000 ADT.
Commercial Limited (CL)	Religious facilities, trade schools, storage, veterinary clinics, nurseries and garden centers.	<ul style="list-style-type: none"> • Discretionary review to ensure compatibility with adjacent Deer Canyon.
Commercial Neighborhood (CN)	Gas station, convenience store, boutiques, specialty retail, business or professional offices, small cafes and restaurants.	<ul style="list-style-type: none"> • NC is 1.5 acres. • PDP required.
Employment Center (EC)	<p>Scientific research, corporate headquarters, research and development, light industrial/manufacturing, light warehousing uses, professional and corporate offices, hotel (up to 150 rooms), ancillary uses which may include: day care facilities, small restaurants, health club, gas station, car wash.</p> <p>Ancillary uses limited to 15-20% of the Employment Center area.</p>	<ul style="list-style-type: none"> • PDP required. • Final SR-56 alignment required prior to discretionary approval for development. • Trail connections shall be provided to the Local Mixed Use Center.

TABLE 4-1 (continued)
TORREY HIGHLANDS LAND USE DESIGNATIONS AND USES

Land Use	Recommended Uses	Comments
Residential Areas		
LMXU Residential	Single-family (SF), small lot SF with second unit, duplex, triplex, attached townhouses.	<ul style="list-style-type: none"> • PDP required. • Density to increase near the commercial part of LMXU. • Vertically mixed residential/commercial encouraged.
Medium-High Residential Density (MHD) 20-40 du/ac	Multifamily low- to mid-rise stacked units with subterranean or wrapped parking structure(s).	<ul style="list-style-type: none"> • PDP required.
Low- to Moderate-Density Residential (LMD) 5-10 du/ac	SF (conventional lot sizes), small to SF with second unit, neighborhood parks, schools, places of religious assembly, day care, group housing.	<ul style="list-style-type: none"> • PDP required.
Low-Density (LD) 2-5 du/ac	SF estate lots, SF clustered, neighborhood parks, schools, places of religious assembly, day care, group housing.	<ul style="list-style-type: none"> • Residential lots on the east side of Camino Ruiz and within 500 feet of Rancho Peñasquitos must be 7,500 square foot minimum lots.*
Very Low-Density (VLD) 1 du/ac or less	SF estate lots, SF clustered, neighborhood parks, schools, places of religious assembly, day care, group housing.	<ul style="list-style-type: none"> • Residential development adjacent to the SDG&E easement and potential substation site shall utilize appropriate setbacks and lot design as recommended by SDG&E.

* The minimum lot size for low-density residential within Parcel #306-021-05 is 5,000 square feet.

**TABLE 4-2
TORREY HIGHLANDS LAND USE ACREAGE**

		DU or Acres
Residential		2,600 DU
VLD	Very Low-Density (Less than 1 du/acre)	28.3 Acres
LD	Low-Density (2-5 du/acre)*	363.85 Acres
LMD	Low-Moderate Density (5-10 du/acre)	62.08 Acres
MHD	Medium-High Density (20-40 du/acre)	7 Acres
LMXU	Local Mixed Use	43.5 Acres
CN	Commercial Neighborhood	1.5 Acres
CR	Commercial Regional	35 Acres
CL	Commercial Limited	10.5 Acres
EC/TC	Employment Center/Transit Center	34 Acres
Schools		
ES	Elementary School (Existing)	12 Acres
MS	Middle School (Existing)	30 Acres
ES	Elementary School (Proposed)**	11 Acres
HS	High School (Proposed)	68.5 Acres
MS	Middle School (Proposed)***	0.3 Acres
P	Neighborhood Park	10 Acres
R	Resource (MSCP)	273. Acres
OS	Open Space	11 Acres
ROW	Right-of-Way	120 Acres
U	Utilities	3.7 Acres
Total		1125.8 Acres

* Total low-density acreage does not include acreage for the underlying LD acreage designated for schools.

** Elementary school and high school designated as LD for underlying land Use. Development of the school site as LD will require a rezoning of the property to implement that designation.

*** Approximately 10 acres of proposed middle school located in Fairbanks Highlands, 15 acres located in Subarea I.

4.2.2 Local Land Uses

A. Local Mixed Use Center

The Torrey Highlands community will be focused around its Local Mixed Use Center (LMXU). The LMXU concept concentrates more intense land uses and densities in the southeastern portion of the community, surrounded by low-density residential and associated open spaces. The LMXU fosters interaction among community residents by providing a mix of commercial, office and public uses within 1,000 feet of the majority of the residential population. The LMXU is located at the intersection of Camino Ruiz and SR-56. Although located near the freeway, the LMXU will not be a freeway-oriented commercial development. Vehicular access to the LMXU is only available via Camino Ruiz or one of the collector roads; direct access from SR-56 is not provided. Parking for the commercial uses within the LMXU will be near the intersection of Camino Ruiz and the freeway. This will allow easy access for those arriving by vehicle, but not impede pedestrians arriving from within Torrey Highlands or via the trail system.

Typically, the dominant commercial anchors of Local Mixed Use Centers are usually a grocery store and drug store. Other commercial uses will consist of retail on the first floor with professional services on the second floor. A public plaza and community room shall be located near the center of the LMXU to further foster pedestrian activity and provide a sense of community. As the Local Mixed Use Center radiates outward, the land use will include a vertical mix of retail on ground floor with residential above some areas.

A wide range of housing types and affordability will be provided in the LMXU including townhomes, apartments, duplexes, single-family residential with accessory units, and small-lot single-family. Residential density will decrease as the distance from the commercial center increases. Neighborhood parks and schools will be linked to the Local Mixed Use Center with clear pedestrian paths and access ways. Two of the new schools will be located in close proximity to the LMXU as well.

To ensure development consistent with this Subarea Plan and with other applicable City documents and ordinances, development within the Local Mixed Use Center will require approval of a PDP (Planned Development Permit), or its successor, permit concurrent with rezoning of the property. Specific design and development policies for the LMXU are contained in **Chapter 5, Community Design Guidelines**.

Northern LMXU Parcel

The Northern LMXU Parcel is approximately 1.5 acres and is located in the northwestern quadrant of the Camino Ruiz and Street “B” intersection. The uses anticipated for the site are neighborhood-serving in nature and could include uses such as a coffee house, sandwich shop, dry cleaners and video store. The Design Guidelines for the Crossroads Neighborhood Commercial Center and a conceptual site plan have been approved for this parcel. To ensure development consistent with the guidelines and other applicable ordinances, development of this parcel will require approval of a site-specific PDP.

B. Residential Areas

Intent: Torrey Highlands will accommodate a maximum of 2,600 dwelling units in a mix of densities, affordability and residential housing types. The use of very low-density and low-density housing on the periphery of Torrey Highlands allows new development to be compatible with the existing surrounding communities. The intent of concentrating density within 1,000 feet of the commercial uses in the LMXU is to reduce reliance on private automobiles, increase pedestrian activity and enhance the viability of the commercial uses. Densities will be highest near the commercial uses in the Local Mixed Use Center and will decrease with distance from the major activity centers. Up to 475 units may be located in the LMXU.

All residential areas will be connected to major land use destinations such as shopping, jobs, schools, parks and open space through a well-planned system of trails, bikeways and streets. (See **Chapter 3, Circulation.**) Specific residential design guidelines and streetscape policies are contained in **Chapter 5, Community Design Guidelines.**

Density Ranges: **Table 4-1** describes the density range for each residential designation. The density for each designation shall not be exceeded.

Medium-High Density Residential

Areas in Torrey Highlands designated Medium-High residential will allow multifamily development at an average of 20 to 40 dwelling units per acre. Multifamily dwelling unit types include low- to mid-rise stacked units with subterranean or wrapped parking structures. All developments within the medium-high density designation will provide at least one on-site amenity such as a swimming pool, a recreation room or other recreation amenity.

Low- to Moderate-Density Residential

Single-family homes will be the predominant use in the low- to moderate-density residential neighborhood. Average gross densities will range from five to ten dwelling units per acre. A range of dwelling unit types will be allowed, including conventional single-family dwellings, small-lot developments, single-family with accessory units, duplexes, triplexes and town homes. While multifamily developments will be a permitted use based on overall density, the predominant development will be single-family. A well-planned system of trails connects the residential areas with the neighborhood parks, the open space system and with other destinations including schools and the Local Mixed Use Center. **Chapter 5, Community Design Guidelines**, contains site design and development guidelines to achieve a mix of housing types.

Low-Density Residential

Areas of Torrey Highlands designated low-density residential will allow single-family development at average gross densities of two to five dwelling units per acre. Dwelling unit types may include single-family, single-family with companion units and clustered development.

Low-density residential areas on the east side of Camino Ruiz, and within 500-feet west of the Rancho Peñasquitos community, will relate to existing residential development in Rancho Peñasquitos through the use of minimum lot sizes of 7,500 square feet* and compatible scale and type of building. Additional design policies are contained in **Chapter 5, Community Design Guidelines**.

4.2.3 Subregional Land Uses

Torrey Highlands' projected population of approximately 7,280 persons, together with projected population from the entire NCFUA and existing communities, creates demand for a centralized area to provide subregional goods, services and job opportunities.

The subregional uses are located to take advantage of:

- One of the two freeway interchange locations (Camino Ruiz and SR-56) within the NCFUA.
- The absence of comparable uses in the adjacent community of Rancho Peñasquitos.

Subregional facilities including an Employment Center, Commercial Limited and Commercial Regional uses are sited in the southern portion of Torrey Highlands. Their location takes advantage of freeway proximity.

* The minimum lot size for low-density residential within Parcel #306-021-05 is 5,000 square feet

Employment Center

The commute from home to work typically generates approximately one-third of all automobile trips. By providing an Employment Center within Torrey Highlands, a reduction in traffic may be possible. The Employment Center will contribute to an employment base for the North City. The close proximity of the Employment Center to the Local Mixed Use Center and residential areas will decrease the dependency on private automobiles for residents of Torrey Highlands. The Employment Center area is estimated to include 600,000 square feet and may contain:

- Scientific research, and research and development uses
- Light industrial and manufacturing uses
- Professional and corporate office uses
- Business support and other convenience facilities
- Drive-through services are not permitted in the Employment Center

The provisions for business support and other convenience facilities is an essential element of the Torrey Highlands Employment Center. These support facilities provide services and products to employees without competing with the LMXU.

The Employment Center may also integrate design considerations in the event that transit services the area. As of June 1996, the MTDB has indicated that it will not provide transit services to the community. However, transit support facilities should be incorporated within the Employment Center to allow for private shuttles or eventual service by MTDB. The MTDB will make the actual determination when and under what circumstances transit service will be provided to the community prior to the issuance of tentative maps associated with the Employment Center site. Siting and design guidelines for the Employment Center are contained in **Chapter 5, Community Design Guidelines**.

Commercial Regional

There are two separate and distinct regional commercial areas identified in the Torrey Highlands Community. The primary Commercial Regional area covers approximately 23 acres north of the intersection of Camino Ruiz and Carmel Mountain Road, and the northern Commercial Regional area covers approximately two acres at the southeastern quadrant of the intersection of SR-56 and Camino Ruiz. Commercial Regional uses include: neighborhood-serving commercial uses, area-serving retail sales, automotive uses, commercial recreation facilities, visitor-serving commercial uses and offices.

The Commercial Regional locations benefit from the high visibility of the major routes including SR-56 and Camino Ruiz, easy access through the SR-56/Camino Ruiz interchange and central location within the region.

The primary Commercial Regional area allows for a broad range of retail commercial uses and is intended to serve both the Torrey Highlands and Rancho Peñasquitos communities. Up to 250,000 square feet of commercial development and 275,000 square feet of self-storage will occur on approximately 23 acres with the current alignment of Carmel Mountain Road and Camino Ruiz. Even if the acreage of the Commercial Regional site should increase based on the final alignments of Carmel Mountain Road and Camino Ruiz, the commercial square footage will remain at 250,000 square feet.

The northern Commercial Regional area is designated for auto-oriented Commercial Regional uses. Development of this parcel is restricted to a maximum of 10,000 square feet and 6,000 average daily trips (ADT). The Design Guidelines for the Commercial Regional Center and two conceptual site plans, illustrating potential development phases, have been approved for this parcel. To assure development consistent with the guidelines and other applicable ordinances, development of this parcel will require approval of a site-specific Planned Development Permit (PDP) and any necessary use permits. Chapter 5, **Community Design Guidelines**, contains specific siting and design guidelines for the Commercial areas.

Commercial Limited

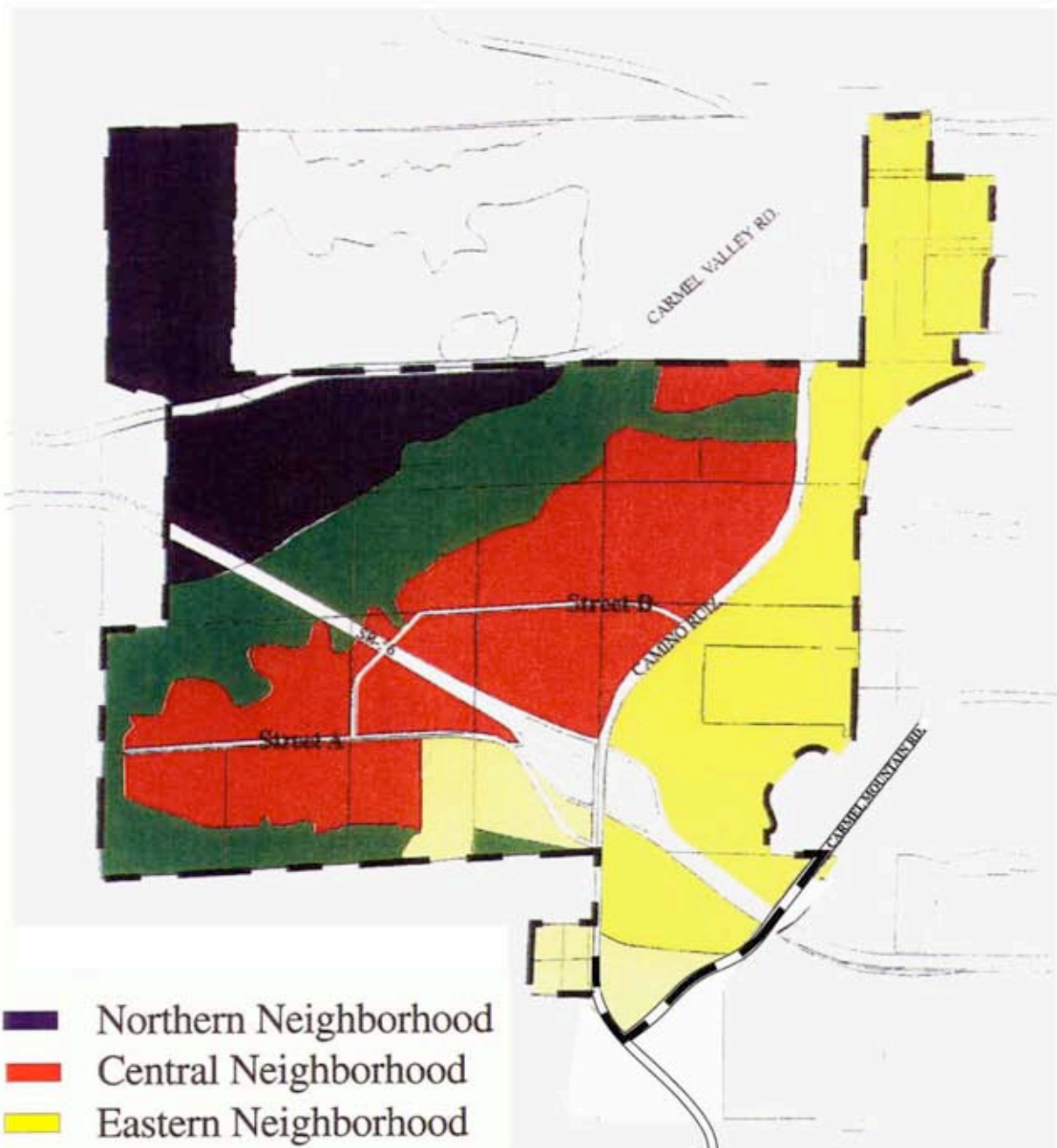
Approximately 10.5 acres west of Camino Ruiz are designated for Commercial Limited uses. These uses are somewhat dependent on automobiles but are appropriate for the more isolated location of this site.

This category of land use includes: religious facilities, trade schools, storage facilities, nurseries, garden centers and veterinary clinics.

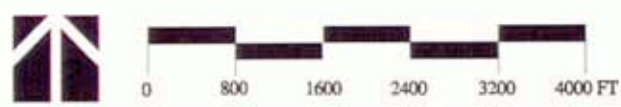
4.3 LAND USE PATTERN

4.3.1 Land Use Concept

The Torrey Highlands community is based on a traditional planning concept which emphasizes bicycle, equestrian and pedestrian paths, and focuses community activities around this concept. Commercial, civic and residential uses will be integrated in the community core and the circulation element will accommodate pedestrian, bicycle, transit and equestrian access with comparable ease to what motorized vehicles enjoy. In addition, a diverse variety of housing options are provided to ensure that residential opportunities are available to accommodate a range of incomes from very low to very high. To achieve a fine-grained development pattern which will implement these planning principles, Torrey Highlands is divided into four distinct planning areas as shown in **Figure 4-3** and described below:



- Northern Neighborhood
- Central Neighborhood
- Eastern Neighborhood
- Resource
- Sub-Regional Areas



Neighborhood Map 4-3
Torrey Highlands Subarea Plan FIGURE

- A Northern Neighborhood including 1.5-acres of Neighborhood Commercial and a five-acre neighborhood park
- A Central Neighborhood including residential areas and a 43.5-acre Local Mixed Use Center, neighborhood park, elementary school and a high school
- An Eastern Neighborhood including the existing elementary school and middle school
- Subregional Area comprising the Employment Center and Commercial uses near SR-56

Northern Neighborhood

The Northern Neighborhood is located in the northwest portion of the Torrey Highlands planning area. The neighborhood is bordered by two canyons: La Zanja Canyon to the north and McGonigle Canyon to the south. An SDG&E power line and easement borders the area to the west.

Because of its more remote location and orientation to Carmel Valley Road, the Northern Neighborhood will develop a small, 1.5-acre Neighborhood Commercial site to serve the residential area. The Northern Neighborhood will also consist of the following:

- 1.5 acres of Neighborhood Commercial which may include a gas station, convenience store, boutiques, specialty retail, small business or professional offices, small cafes and restaurants
- A five-acre neighborhood park adjacent to the Torrey Highlands Preserve Segment
- Trails connecting the Northern Neighborhood to the Torrey Highlands Preserve Segment, schools, neighborhood parks, and Local Mixed Use Center
- 97 acres low-density (LD) residential (2-5 du/ac)
- 28 acres very low-density (VLD) residential (less than 1 du/ac)
- A 3.5-acre SDG&E substation site

Central Neighborhood

The Central Neighborhood is located in the middle portion of the Torrey Highlands planning area. The neighborhood is bordered by McGonigle Canyon to the northwest, Camino Ruiz to the east and Deer Canyon to the south.

The Central Neighborhood includes a 43.5-acre Local Mixed Use Center which has the potential to serve as a social hub for the entire Torrey Highlands community by providing a mixture of retail, commercial, civic, office and

residential uses in a pedestrian-oriented design and scale. The size of this center responds to the greater population base and combination of land uses in the central neighborhood. It will be supported by adjacent Employment Center uses.

Overall, the Central Neighborhood will contain:

- A 43.5-acre Local Mixed Use Center consisting of:
 - A maximum of 132,000 square feet of neighborhood serving commercial
 - Up to 475 dwelling units
 - Restaurants
 - Businesses and professional offices
 - Provisions for transit
 - A significant, large-scale landmark or focal point such as a public square plaza, or active outdoor recreation
- An 11-acre elementary school with a child care facility
- A five-acre neighborhood park between the elementary school and high school
- Trails connecting the Central Neighborhood to the MSCP Preserve, schools, neighborhood parks, and surrounding neighborhoods
- Approximately 173 acres of low-density (LD) residential (2-5 du/ac)
- Approximately 22 acres of low- to moderate-density (LMD) residential (5-10 du/ac)
- Approximately 69 acres for a high school or other uses; if this area is not needed for school purposes, low-density residential will be developed; development of the school site as low-density residential will require a rezoning of the property to implement that designation

Eastern Neighborhood

The Eastern Neighborhood is located in the eastern portion of Torrey Highlands. The neighborhood is bordered by Rancho Peñasquitos to the east, Black Mountain Ranch to the north, Camino Ruiz to the west, and SR-56 to the south.

The neighborhood will be connected to the Local Mixed Use Center in Torrey Highlands by Camino Ruiz, as well as with pedestrian and bicycle paths. The open spaces will provide view opportunity for low-density and low-medium density housing.

The Eastern Neighborhood will contain:

- The existing 12-acre Adobe Bluffs Elementary School
- The existing 30-acre Mesa Verde Middle School
- Trails connecting the Eastern Neighborhood to the Preserve corridor, schools, neighborhood parks, and surrounding neighborhoods.
- Approximately seven acres of medium-high density (MHD) residential (20-40 du/ac)
- Approximately 115 acres low-density (LD) residential (2-5 du/ac)

4.4 PARCEL YIELD

The maximum number of residential units to be constructed within Subarea IV (as approved on November 5, 1996) is 2,693 of which the phase shifted portion of Torrey Highlands includes 2,600 dwelling units. The Torrey Highlands Public Facilities Financing Plan has been prepared anticipating buildout of the 2,693 units in Subarea IV. **Table 4-3** further reflects the anticipated allocation of the 2,693 units throughout Subarea IV by land ownership. It should be noted that **Table 4-3** was prepared for illustrative and planning purposes only and does not create or vest any density entitlements. Therefore, the right to build with the densities reflected in **Table 4-3** is contingent upon and subject to future discretionary approvals and rezonings. Parcels are keyed to **Figure 4-4**.



Ownership Map 4-4
Torrey Highlands Subarea Plan **FIGURE**

**TABLE 4-3
PROPERTY OWNER RESIDENTIAL LAND USE YIELD***

Parcel	DU	Notes
A	1	
B	73	
C	0	SDG&E
D	93	Fairbanks Highlands***
E	31	MS**
F	5	
G	94	
H	43	
I	43	
J	4	
K	0	Poway Unified School District
L	0	City of San Diego
M	65	
N	58	
O	133	
P	44	
Q	20	
R	39	HS**
S	39	HS**+
T	79	
U	113	
V	55	
W	78	ES**
X	137	HS**
Y	168	
Z	137	7 LMXU Units
AA	348	338 LMXU Units
BB	463	119 LMXU Units
CC	0	
DD	0	
EE	0	
FF	269	
GG	0	
HH	0	
II	0	
JJ	0	
Total***	2,693	

* Table 4-3 was prepared for illustrative and planning purposes only and does not create or vest density entitlements for any parcel or property ownership. Circumstances such as fixing road alignments or environmental preservation areas may have the effect of increasing or decreasing the net developable area of a parcel or property ownership. Therefore, the right to build consistent with the densities reflected in Table 4-3 is contingent upon and subject to future discretionary approvals and rezonings. (To the extent that development units up to the five units per acre maximum yield are not achieved on a particular "LD" parcel or property ownership, they may be reallocated to the LMXU dwelling unit total up to the 475 allowable units referenced in the Plan.)

** The underlying land use for all properties designated as schools on the Land Use Plan (Figure 4-1) is LD residential. Any change to the location of the schools will result in the densities shown on the chart to be adjusted accordingly.

*** 93 dwelling units from Fairbanks Highlands are not a part of the phase shift, but are included in Subarea IV.

+ Includes 17 dwelling units transferred from area designated as MSCP.

Chapter Five

Community Design Guidelines

CHAPTER FIVE: COMMUNITY DESIGN GUIDELINES

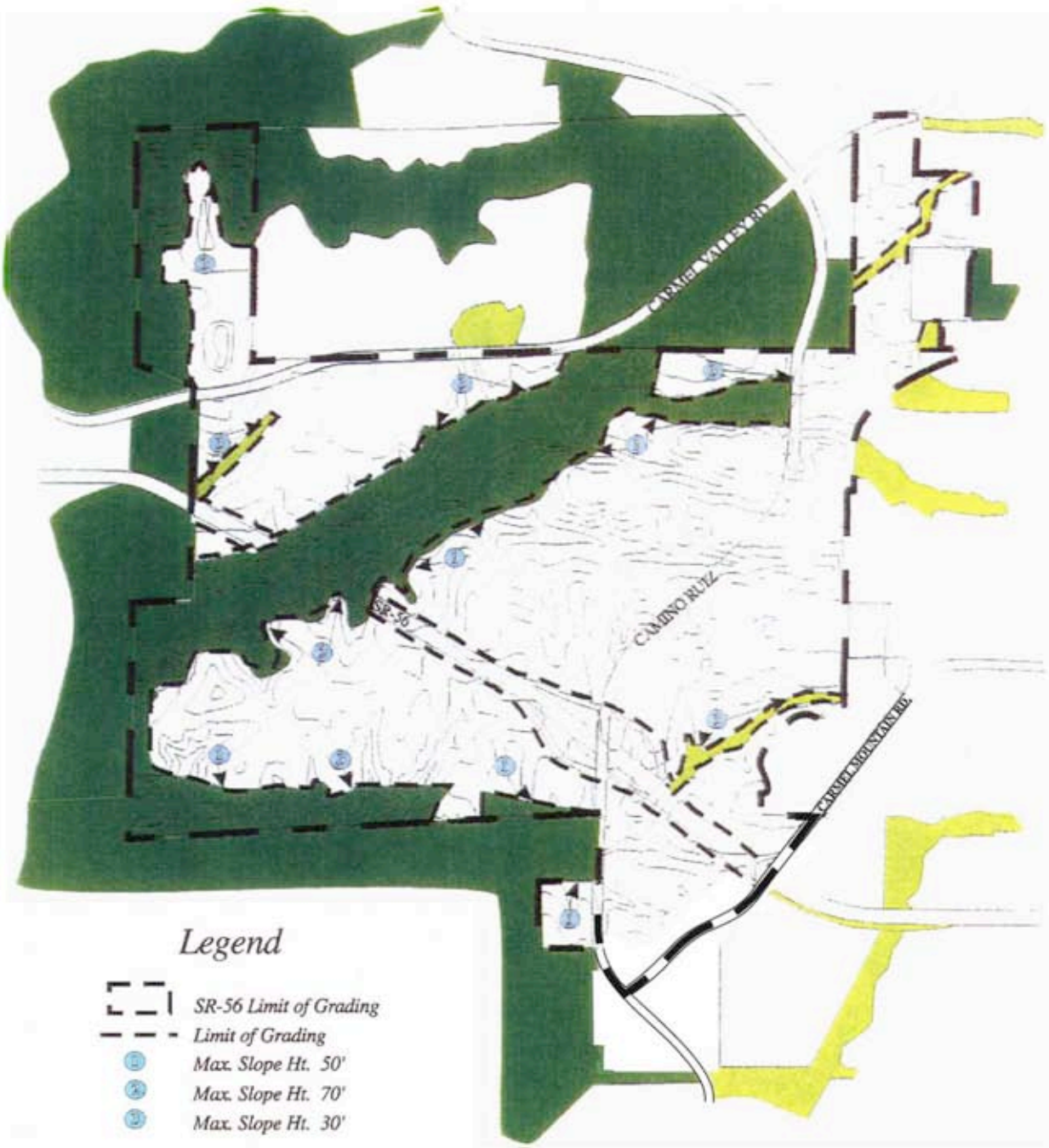
GOAL:

Develop Torrey Highlands as a traditional community of distinct yet complementary neighborhoods that emphasize: pedestrian-oriented design with close proximity and access to institutional, retail and employment center land uses; variegated residential product types from single-family estate to LMXU density multifamily attached in a fine-grained pattern; and unified open space elements.






5.1 IMPLEMENTING PRINCIPLES

- Employ sensitive landform alteration concepts throughout Torrey Highlands that will guide grading design, including contour grading, variable slope ratios and revegetation with native plant materials.
- Utilize related landscaping, fencing and edge treatments throughout Torrey Highlands to connect the various neighborhoods and activity nodes and provide a coordinated street treatment on major streets throughout the NCFUA.
- Vary building scale, architectural detail and landscape treatments in residential, commercial and Employment Center areas to create an interesting and lively pedestrian environment.
- Facilitate convenient non-motorized transportation access within the Torrey Highlands community through a multi-modal circulation system that incorporates direct, multi-purpose streets, as well as a trail system which accommodates bicycle, equestrian, electric vehicle and pedestrian access throughout the community.
- Provide appropriate interfaces and transitions between differing land uses to minimize adverse impacts.

The design guidelines set forth in this section have been established to provide for the orderly development of the Torrey Highlands Community. They are intended to provide design guidance while providing flexibility through the long-term buildout of the Subarea. The standards address the arrangement and development of commercial, residential and employment center uses consistent with the intent, purpose and goals of the General Plan, including the NCFUA Framework Plan. Application of these guidelines is specifically intended to build upon the Framework Plan guidelines by creating harmonious relationships among land uses within the Subarea; within the rest of the NCFUA; within adjoining communities; and to protect the health, safety and welfare of the community. While a coordinated and complementary design for Torrey Highlands community is desired, a particular design theme is not specified.



Legend

-  SR-56 Limit of Grading
-  Limit of Grading
-  Max. Slope Ht. 50'
-  Max. Slope Ht. 70'
-  Max. Slope Ht. 30'



Grading Plan 5-1
Torrey Highlands Subarea Plan **FIGURE**

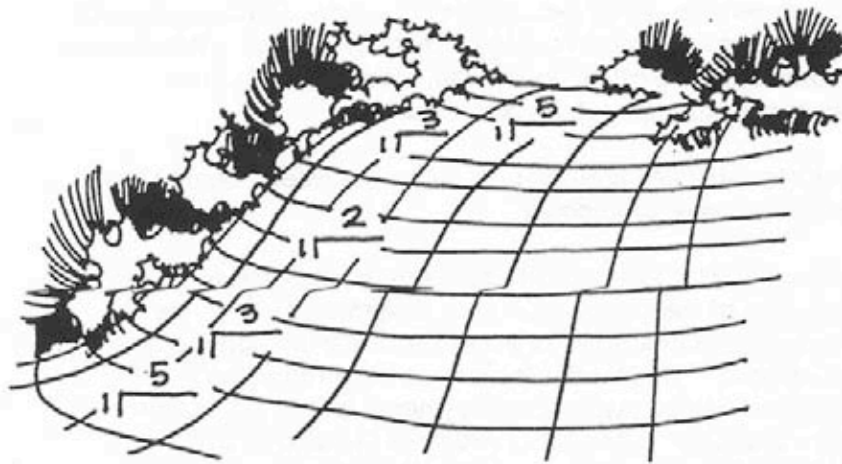
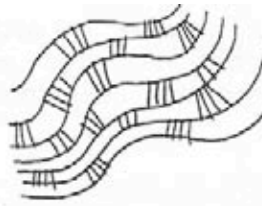
5.2 GRADING

5.2.1 Grading Plan

A conceptual grading plan has been prepared to guide future development of the community. The Concept Grading Plan (**Figure 5-1**) sets the outer limits of development and disturbance along the MSCP Preserve and identifies areas where the natural landforms are to be preserved. The Concept Grading Plan also identifies maximum slope height for development adjacent to open space. All grading for future projects must comply with applicable development regulations. Encroachment beyond the limits of disturbance shall be avoided.

The grading philosophy is to avoid significant grading adjacent to the MSCP Preserve and to retain the sense of existing landforms in development areas. Contour grading shall be used to create artificial slopes with curves and varying slope ratios designed to simulate the appearance of surrounding natural terrain.

Use contour grading for natural terrain appearance



Use variable slope ratios for grading adjacent to the proposed MSCP Preserve

5.2.2 Grading Policies

- Extensive grading and/or terracing that disrupts the natural shape and contour of the site shall be restricted except in the Employment Center, Local Mixed Use Center and Commercial Regional areas where larger pads are required. Where these pads are necessary, grading will be limited to the areas necessary for construction.
- Grading along the edge of the Preserve shall retain the existing characteristics of finger canyons. What limited grading that may occur within the Preserve shall be revegetated with native plant material that is horticulturally and visibly compatible with the Preserve.
- Berming and terracing will be a preferred method which will be used to separate competing land uses. If this cannot be satisfactorily accomplished, a street may serve the same function.
- Manufactured slopes will not exceed a slope ratio greater than 2:1. Variable slope ratios will be used to avoid abrupt changes from pads to slopes.
- Project grading design shall balance cut and fill on-site to avoid the need for excessive importing or exporting of soil.
- Manufactured slopes shall be landscaped with native or drought tolerant plant materials.

5.3 LANDSCAPING

5.3.1 Landscape Concept

The general goals of the landscaping program for Torrey Highlands are to preserve and enhance the natural character of the community, provide a coordinated program for street landscaping and provide fire protection zones between native areas and structures. Edge interface areas will also be created to provide visual blending between uses and appropriate buffers between competing land uses. Several landscape components will be utilized throughout Torrey Highlands: Preserve revegetation areas, slopes and hillsides, major streets and medians, neighborhood areas, edge interface landscaping, fuel management areas and water conservation. **Appendix B** includes a recommended plant list for Torrey Highlands.

5.3.2 Preserve Revegetation Areas

Many areas of the Preserve will be revegetated. The overall goal of restoration is to create and maintain functional habitat areas. Graded areas within the MSCP Preserve will be revegetated with native species and/or in any other manner consistent with the policies prescribed by MSCP staff. Specific restoration guidelines are provided in **Chapter 2, Open Space**, as well as Appendix D of the Torrey Highlands Biological Resources Report Restoration and Enhancement Plan (**Appendix C** of this Plan).

5.3.3 Slopes and Hillsides

Natural and manufactured slopes occur throughout Torrey Highlands. Some slopes will be adjacent to major streets while others will separate land uses. As required by the Landscape Technical Manual:

- All manufactured slopes and hillsides steeper than 6:1 and greater than five feet in height shall be landscaped with native or drought tolerant plant materials.

5.3.4 Streets and Medians

Major streets in Torrey Highlands include Carmel Valley Road, Camino Ruiz and Carmel Mountain Road. Landscaping along major roads shall use street trees selected from the Recommended Plant List for Torrey Highlands (**Appendix B**) to establish continuity and a design theme.

- In general one tree species should be used per street. Because of their limited shade production and tendency to overwhelm pedestrian scale, palm trees should not be used for street trees in Torrey Highlands. The spacing of street trees will vary depending upon the species selected; trees with narrow canopies should be placed closer than those with a broad profile.
- Accent trees should be used at intersections or focal points and should be a different species than the street tree.

5.3.5 Neighborhood Landscape Components

Throughout the distinctive neighborhoods of Torrey Highlands, continuity can be established through the use of landscape themes. Landscape components will also create a visually pleasing and comfortable pedestrian environment. Trees, shrubs and groundcovers shall be selected from the Recommended Plant List for Torrey Highlands (**Appendix B**).

- Use of canopy trees and appropriate accent shrub plant species shall be emphasized throughout the Local Mixed Use Center and the residential areas to create a shaded, pleasant outdoor environment.
- Landscape treatments in the Local Mixed Use Center and in residential neighborhoods shall create a strong, identifiable theme by using street trees to establish continuity; views along streets toward a community focal point (open space vista, public building, street art, historical feature, park structure, etc.) shall be provided and enhanced through use of landscape elements to frame the view.

*LMXU landscape treatments
establish continuity*



- A combination of street trees, ornamental shrubs and groundcovers shall be used along streets to act as a buffer between the pedestrian and the automobile.
- Where roads open up to the Preserve or other open spaces, landscape treatments should consist of low-growing native or drought tolerant annuals, perennials and woody groundcovers; trees shall be located to frame view opportunities.

5.3.6 Edge Interface Landscaping

Edge interface landscaping refers to areas throughout Torrey Highlands which include different land uses adjacent to each other. Examples include the interface between residential areas and the Employment Center, Commercial, Schools and the MSCP preserve.

Landscape setbacks a minimum of ten feet in width shall be provided on the sides of commercial and Employment Center uses adjacent to residential areas; in addition, screening walls should be placed at the ten-foot setback line and landscape berms should be used in the landscape area to adequately separate and buffer uses.

Where schools abut residential uses, residential developments should use appropriate landscape buffer techniques including, but not limited to, grade separation, berming and mass plant species; however, pedestrian circulation shall not be impeded by the buffering. Potentially adverse visual impacts of Employment Center uses shall be mitigated through incorporating grade separation, artificial mounding and mass plant species of non-invasive drought tolerant trees and shrubs; this shall be intended to screen views from the adjacent Preserve, SR-56 and residential areas.

Grade separation useful for screening visual impacts



5.3.7 Fuel Management Areas

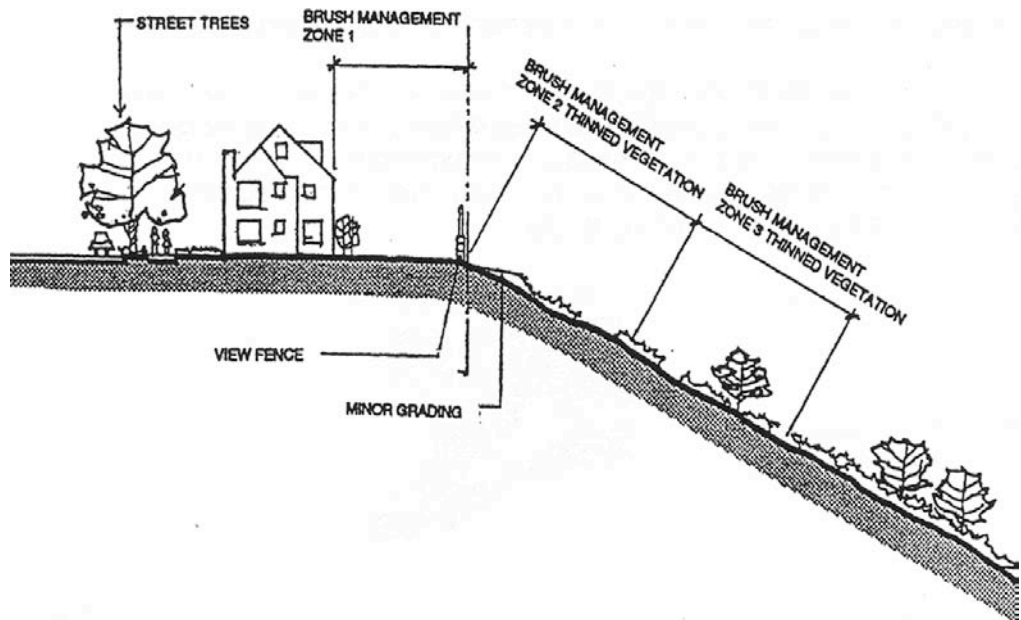
Fuel management areas exist between all structures and vegetation of canyons and hillsides and is intended to preserve, protect and safeguard human lives and property and the natural habitat. Brush management shall comply with the City's Landscape Technical Manual and MSCP staff requirements. For fuel management adjacent to the Preserve, see **Section 2.4.3**.



5.3.8 Water Conservation Measures

Landscape irrigation is a major source of water consumption in the urban environment. In addition to the City's Development Regulations, projects within Torrey Highlands will incorporate the following water conservation strategies:

- Runoff from landscaped areas shall be reduced through utilization of berming, raised planters and drip irrigation.
- Irrigation systems shall be automatic and use low-precipitation sprinkler heads, anti-drain valves, rain switches and other conservation devices.
- Vegetation indigenous to the area and non-invasive, drought tolerant plant materials shall be emphasized in the Torrey Highlands streetscape.
- Use of reclaimed water where available.
- Incorporate low-flow toilets, faucets and other water conserving devices into construction.
- Provide information regarding water conservation measures to new residents at the time of lot purchase.

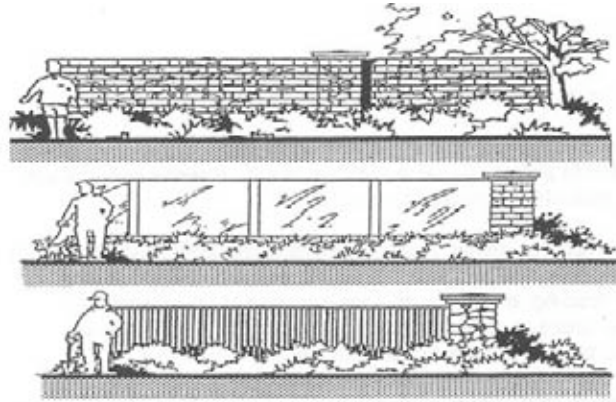


Fuel Management adjacent to the Preserve

5.4 FENCING AND WALLS

5.4.1 Fencing and Walls Concept

Fences and walls in Torrey Highlands will serve several functions including land use buffering and noise attenuation, privacy and security, ornamental treatments and identification. As a potentially highly visual element throughout a community, these structures will all be designed to provide a unifying element and to be aesthetically pleasing. The exact design, height and location shall be determined during the processing of site-specific development plans and fencing regulations.



Fencing and walls serve as sound attenuation, enhance privacy and supply ornamentation

5.4.2 Fencing and Walls Policies

- Earth berms shall be used to replace or supplement walls and fences whenever practical; any sound wall that is required to be over six feet in height must be screened with landscaped berms.
- Walls shall be uniform in design for each project.
- If constructed along the boundaries of the Preserve or an open space, walls, fences and other barriers along the boundaries of the Preserve shall be of an “open” design to permit unobstructed views and vistas of the wildlife corridor and major topographical features of a particular directional orientation (e.g., Black Mountain to the east or Del Mar Mesa to the south).
- Walls and fences shall not prohibit pedestrian, equestrian and bicycle access to streets, the Local Mixed Use Center, commercial developments, parks, community facilities and open space trails.
- Retaining walls are sometimes appropriate to minimize impact to hillside slopes; where used to minimize site impacts, crib walls planted with drought tolerant species are preferred; where block retaining walls are used, landscaping to serve as visual screening shall be provided; retaining walls over six feet in height shall be terraced.

5.5 STREETS AND TRAILS

5.5.1 Streets and Trails Concept

The streets and trails throughout Torrey Highlands, as described in **Chapter 3, Circulation**, will be designed to establish a system for convenient movement of people from residential areas to local and regional goods and services and to recreational areas throughout Torrey Highlands. The following design guidelines further establish the method by which Torrey Highlands neighborhoods will accommodate automobile, alternative technology, electric vehicle, transit, bicycle, equestrian and pedestrian traffic.

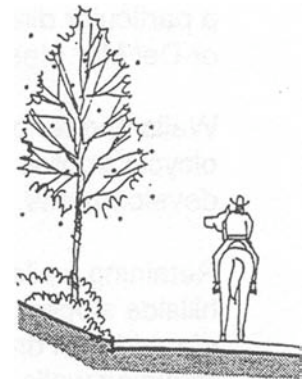
5.5.2 Streets and Trails Policies

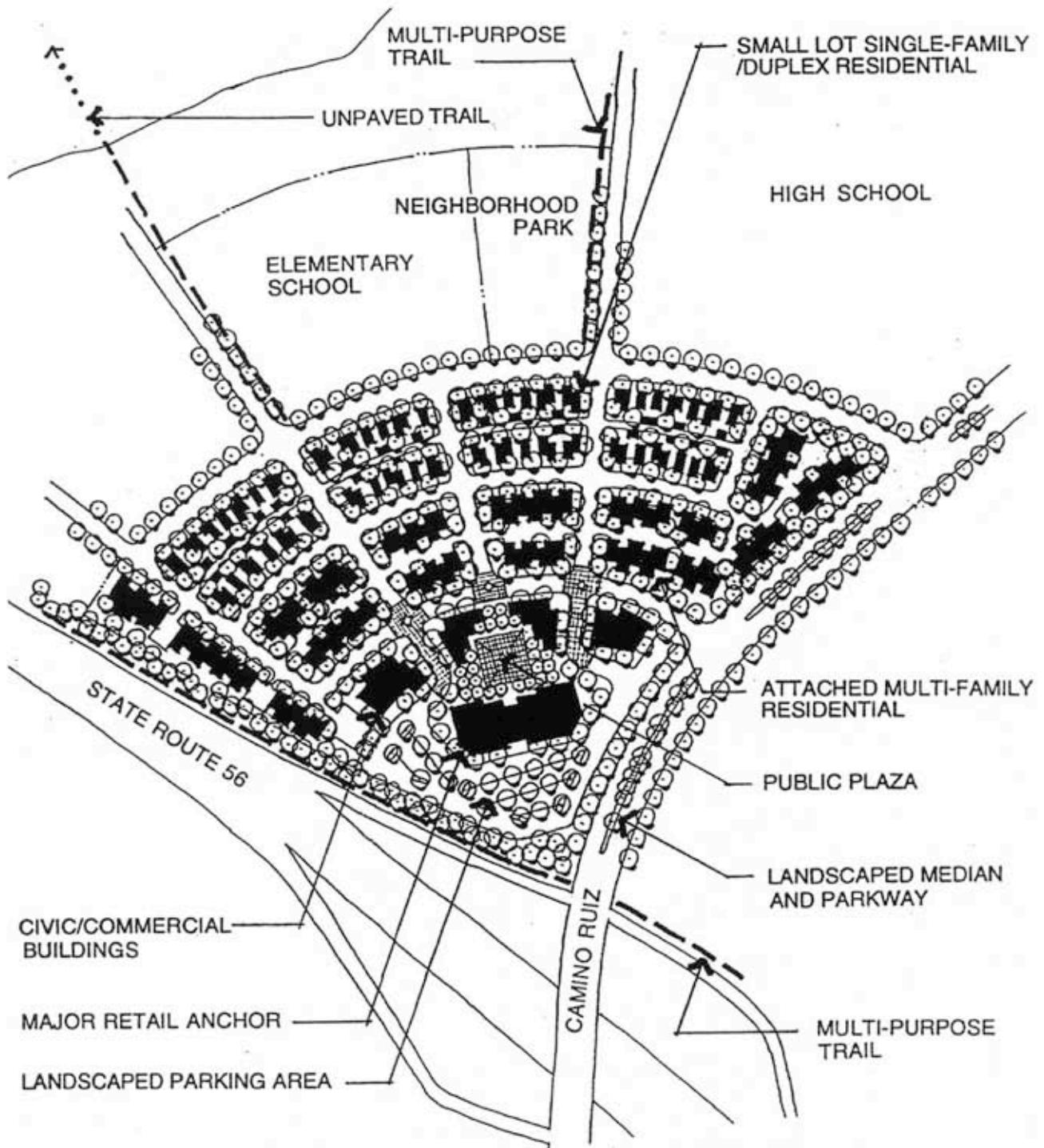
Street Layout and Design

- In the Local Mixed Use Center, streets shall utilize a grid or modified grid system to provide visual landmarks, create a sense of place and promote pedestrian and bicycle circulation.
- In low-density residential areas, a modified-grid system shall be used where topography allows, adapting road design to topography to minimize grading; where cul-de-sacs are used in low-density residential areas, pedestrian throughways shall be used where needed to provide access to destinations.
- Public streets shall extend from residential areas into the Local Mixed Use Center to accommodate pedestrian and bicycle access.
- Open spaces, schools, parks and neighborhoods will be connected with convenient pedestrian walkways and bikeways.
- Street sections shall include landscaping, sidewalks and trail improvements.
- Reduced speeds shall be encouraged in residential areas through use of narrower street designs where permitted by the City Engineering Department.

Pedestrian Ways and Trails

- Unpaved trails in the transition area of the Preserve (see **Chapter 3, Circulation**) shall follow the contour of the land and be “fitted” to the ground to minimize disturbance.
- Where unpaved trails are anticipated for equestrian use, minimum width shall be six feet and desired width shall be ten feet, to accommodate passing and riding two abreast.

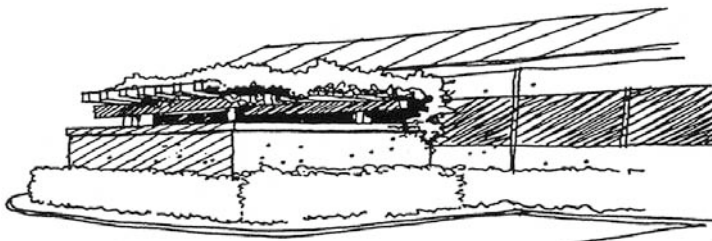




Local Mixed Use Center - Northern Alignment 5-2
 Torrey Highlands Subarea Plan **FIGURE**

Street Furniture

- Utility structures and street furniture shall be designed to complement and reinforce the architectural style of the surrounding buildings; trash bins and utilities shall be screened from public view by solid walls, fences and/or landscaping.



Screened trash bin enclosures

- Transit stops shall be designed and sited in accordance with MTDB guidelines and be located to be convenient to pedestrian areas along Carmel Valley Road and Camino Ruiz, as well as the Local Mixed Use Center; the transit stops shall be recessed for circulation ease; landscape planting shall be designed for a sense of safety and enclosure.

5.6 DEVELOPMENT AREAS

These guidelines are intended to promote creativity and innovation, as well as consistent quality in the implementation of Torrey Highlands neighborhoods. They shall be enforced through discretionary review of Planned Development Permits. **Figure 5-2** illustrates a design scenario for the Central Local Mixed Use Area.

5.6.1 Local Mixed Use Center Policies

- Alleys are encouraged where practical. Street blocks shall be limited in size to 400' by 220' with alleys to facilitate a fine-grained mix of development as illustrated in **Figure 5- 2**.
- Buildings should be arranged to form clearly defined public open space; public spaces shall be located in prominent locations within the core and provide a connection between commercial land uses and public buildings.
- Street-level uses shall encourage a pedestrian-oriented district that supplies consumer goods and services including retail, offices and galleries.
- A pedestrian-friendly environment will be achieved through the use of amenities such as shade trees, street furniture, narrow streets where appropriate, visual landmarks, plazas and courtyards; buildings shall front along the public street and sidewalks and be designed with minimum setbacks.



- Buildings shall be oriented toward the street and placed on or within ten feet of front property line to maintain continuity of street.
- Building facades shall vary and be articulated at street level through the use of arcades and awnings, bay windows and pictures windows, recessed entries and use of landscape planters rather than offsetting planes; articulation above the first story shall be continued through use of outdoor balconies and architectural relief and design; varied roof planes and shapes shall be used.
- The textural and material quality of a building's facade is important; traditional materials including stone, brick, concrete, block and stucco shall be used creatively to provide a sense of permanence; combined with architectural details and landscaping, the buildings can create a sense of connectivity to the street scene and pedestrians; reflective surfaces on buildings are prohibited at street level.

- Street trees shall be used throughout the Local Mixed Use Center; pedestrian seating areas shall be provided at select locations and be improved with benches, shade trees, ornamental landscape accents and trash receptacles.

Street trees used throughout the LMXU center



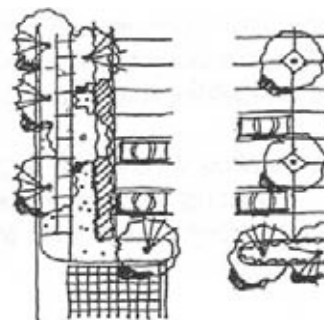
- The Local Mixed Use Center shall be oriented toward the intersection of two interior or "main" streets and away from Camino Ruiz; development of street level, commercial anchors at the four comers of this intersection will provide focus for the Local Mixed Use Center.
- A traditional village atmosphere shall be fostered by encouraging outdoor activities including outdoor seating areas for cafes and restaurants, requiring sidewalk landscaping and building articulation such as awnings, overhangs and arcades; access to the neighborhood park is planned through the use of trails and pathways, as well as potential siting of commercial businesses including cafes and bookstores opposite the park.
- Side roads should focus towards the center of the Local Mixed Use Center providing alternative auto and pedestrian routes into the core area.

Parking

- On-street parking shall be allowed adjacent to sidewalks in the Local Mixed Use Center.
- Alleys shall be permitted in the Local Mixed Use Center to encourage service areas at the rear of buildings.

- Parking lots shall be located to the interior of blocks and/or in the rear of buildings, allowing building frontages to be set back minimal distances from the sidewalk; where parking is located behind buildings, rear entrances shall be provided to the shops and offices in those buildings.
- Parking lots shall be landscaped to prevent vast expanses of asphalt; landscaping shall include low walls and/or landscaping hedges at the perimeter and canopy trees and low shrubs throughout the interior of the parking lots.

Parking lots shall be landscaped to prevent vast expanses of asphalt



- In the Employment/Transit Center, joint use of parking facilities will be integrated between land uses which have differing peak hours through the incorporation of transportation demand management policies and accommodations such as preferential fees.
- Bicycle parking facilities shall be provided throughout the Local Mixed Use Center.
- Parking and pedestrian lighting shall complement the scale and style of the adjacent architectural structures and shall be spaced to meet the lighting requirements of outdoor areas relative to their anticipated uses; lighting shall be shielded to reduce spill-over into adjacent development and open space areas; low-pressure sodium lights shall be preferred.

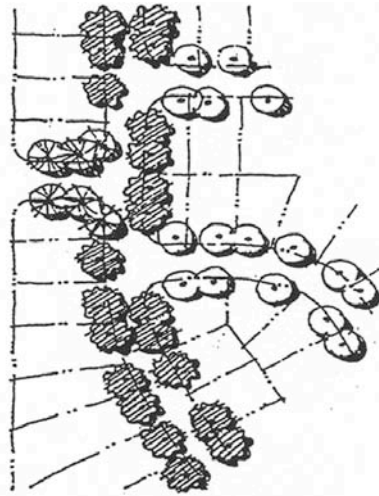
5.6.2 Neighborhood Commercial

The design and development of the 1.5-acre Neighborhood Commercial in the Northern Neighborhood will be subject to Planned Development Permits to ensure high-quality design and construction that will:

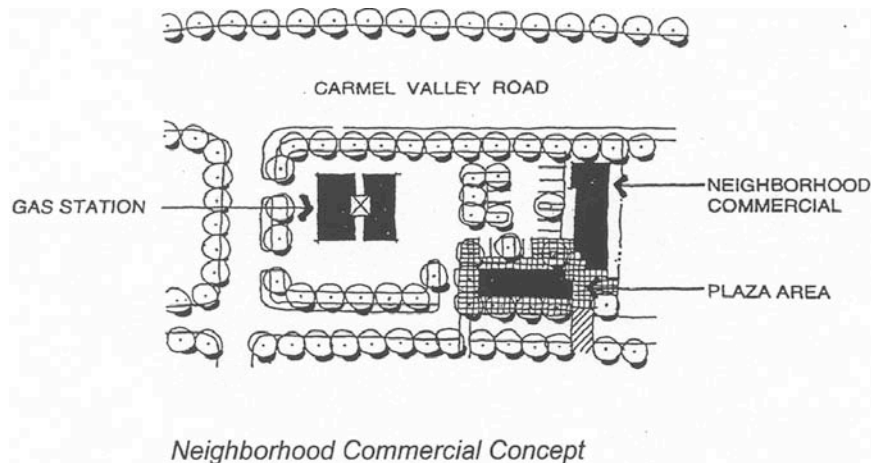
- Provide opportunities for pedestrian activity by incorporating walkways that connect with the surrounding residential areas; a small plaza or courtyard shall be provided as an entry to the commercial development from adjacent residential areas.
- Provide an architectural style for the commercial and gas station that is of high quality and is also compatible with the adjacent residential buildings; building shall be constructed of traditional building materials including stone, brick, concrete and stucco; building facades shall be articulated.

- Provide landscaping that screens parking lots and enhances the area.

*Landscape techniques
establish a sense of place*



- Prepare a signage plan illustrating all signs, including those for the gas station.



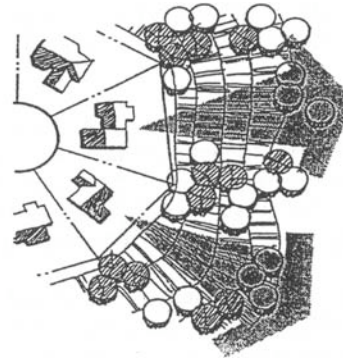
5.6.3 Residential Area Policies

Lot and Neighborhood Design

- Within low-density residential, cul-de-sacs shall be encouraged; streets within residential subdivisions must not inhibit pedestrian circulation or cause additional traffic impacts to other neighborhoods.
- A sense of place shall be established in the residential areas by coordinating lot design, landscape techniques and architectural themes; interconnected trail systems will contribute to unifying the neighborhoods.
- The Local Mixed Use residential areas adjacent to the commercial uses shall consist of a mixture of housing types such as town homes and zero lot-line detached residences; higher densities are to be clustered in locations closest to the commercial areas.

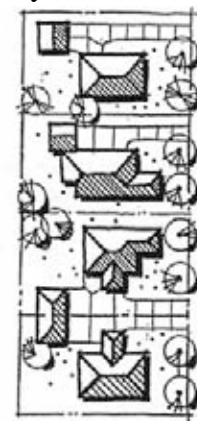
- Canyons and hillside views shall be emphasized as focal points. Lot design shall be adapted to topography and avoid repetitive design.

Canyon and hillside views shall be emphasized



- A fine-grained mix of dwelling units shall be achieved in each residential development area by using a variety of compatible housing product and styles within individual projects.
- Varied building heights and roof massing shall be encouraged along streets to create a visually interesting street scene.
- The CC&Rs shall be established by individual developers which will promote rich architectural detail of dwellings; residential units shall be oriented to the street environment through use of front porches, entries and court yards; window projections and recesses, building overhangs, chimneys, balconies, shade structures and other similar elements shall also be used; a variety of roof types and forms are encouraged.
- Front yard setbacks shall be offset forward or back on adjacent lots to achieve a varied and visually articulated street scene.

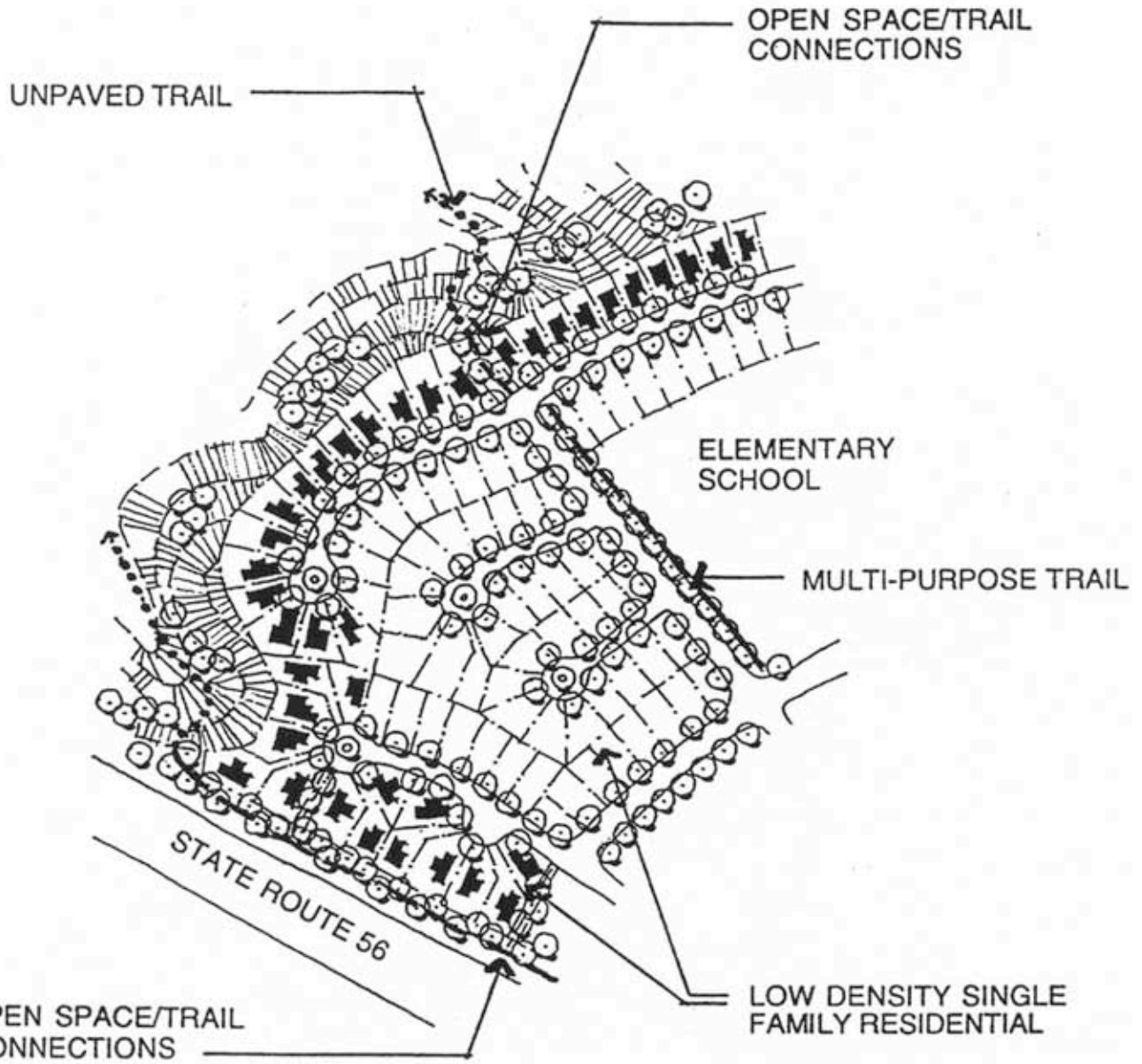
Alleys and garages are encouraged



Residential Interface Conditions

Two elementary schools, two middle schools and a high school will be sited in Torrey Highlands. Design of residential lots adjacent to schools and parks will consider both access to the school and park facilities and privacy for the residential areas.

The SDG&E high-voltage power line easement acts as the western boundary of Torrey Highlands. Appropriate site planning shall be used to buffer residences from transmission lines and the possible substation site. Site planning should include locating single loaded streets, parking lots or landscaped open spaces adjacent to the electrical utilities.



Residential Concept Adjacent to Open Space

5-3

Torrey Highlands Subarea Plan

FIGURE



The south edge of McGonigle Canyon is characterized by steep slopes and several finger canyons. **Chapter 2, Open Space** provides detailed discussion of Preserve guidelines. The following policies supplement and define the buffering and blending of the area between residential uses and the Torrey Highlands Preserve:

- Access into the Preserve from private residential lots will be directed by the use of fencing; access will be provided at common areas as part of the trail system.

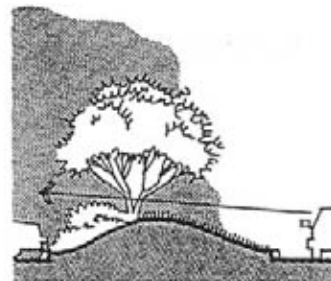
The north edge of McGonigle Canyon is not well defined but, rather, is characterized by gently rising slopes from the canyon bottom, making it necessary to create an edge. The edge conditions at the north side of McGonigle Canyon will include the following:

- A single loaded internal road adjacent to McGonigle Canyon shall be provided where possible, thereby extending the buffer area and the natural site features.
- The transition area within the Preserve shall be dominated by native and naturalizing plant material and may include an unpaved multipurpose trail.

In the southeast portion of Torrey Highlands, Commercial and Employment Center uses are in close proximity to residential areas. Land uses shall be buffered in the following manner:

- Physical separation and screening shall be aided through street layout, setbacks, berming and landscaping.

Landscape berming provides physical separation and screening



- Residential buildings shall be oriented away from the Commercial and Employment Center uses.

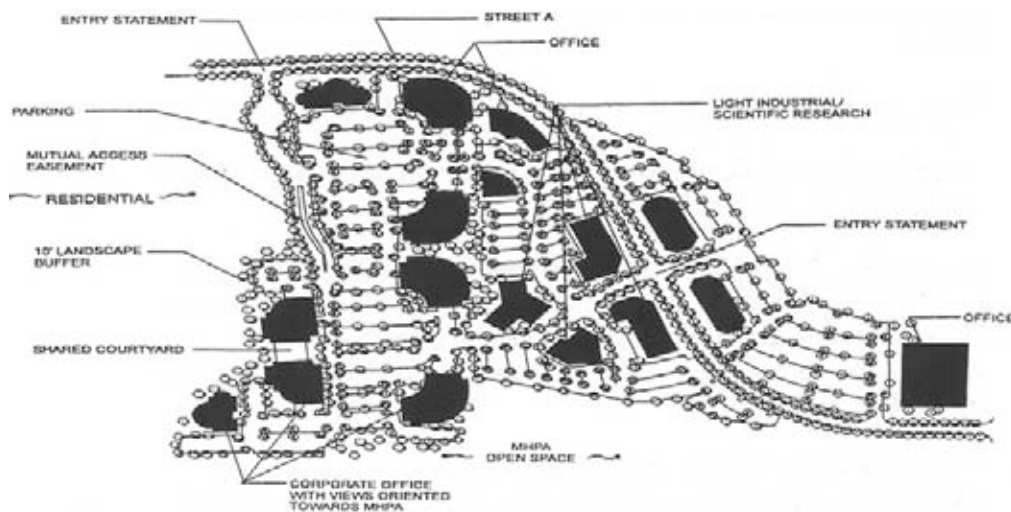
5.6.4 Employment Center

Discretionary review as part of the Planned Development Permit shall be established to ensure that:

- Site design for Employment Center uses shall consider controlled site access; service areas located at the sides and rear of buildings; convenient public access and visitor parking; screened storage, work and mechanical equipment areas; and emphasis on the main building entry and landscaping.

- Mutual access easements and shared driveway access shall be utilized to limit curb cuts along the street frontages and allow maximum landscape area.
- The following elements shall be avoided: large blank, flat wall surfaces; exposed, untreated concrete block walls; large expanses of reflective surfaces; chain link fencing with barbed wire (for security reasons, barbed wire in combination with solid masonry walls, plaster surfaced walls or wooden fences may be acceptable); “stuck on” mansard roofs on a small portion of the roofline; loading doors facing the street; and exposed roof drains.
- Along public streets, landscaped building setbacks ranging from ten to 30-feet shall be provided; in instances where buildings provide pedestrian interest, such as a shop or restaurant placed adjacent to a sidewalk, a maximum 10-foot setback is appropriate.
- Light, neutral colors shall be used on buildings to help reduce their perceived size; contrasting trim and horizontal color bands may help break up the vertical monotony of tall flat walls.
- Buildings shall be oriented to allow shared courtyards or plaza areas to create usable exterior space; individual buildings can be arranged to provide views, define space, suggest orientation or address grade change; buildings shall be sited to create functional spaces.
- Parking shall be managed to allow for shared use where possible.
- Office buildings shall be oriented to take advantage of views into the adjacent open space.
- Pedestrian and bicycle connections shall be provided to the trails located along Street “A” and Camino Ruiz and in the Open Space Amenities; also, provide pedestrian links to support uses and to adjacent residential uses in furtherance of a neo-traditional design concept.
- Architectural styles shall be of high quality and emphasize building materials such as stone, brick and wood; openings for doors and windows shall be recessed into the wall and treated as individual units; shadows created by this treatment will provide articulation to building walls.
- Accessory and support commercial uses will be permitted within the ECITC primary use structures, as a freestanding facility or in an aggregated manner concentrated on a single lot within the ECITC area.
- Distinctive landscaping shall enhance the project site and incorporate the street trees that are used by the adjacent street.
- The mutual access easements will possess distinctive landscaping measures that enhance the project site and comply with the landscaping requirements for public streets as specified in the City’s Landscape Technical Manual and design guidelines specified in this Plan.

- The MHPA guidelines will be followed by considering adjacent lands and addressing such topics of concern as drainage, lighting and landscaping. Lighting shall be directed away from all natural habitat, runoff from parking areas shall not be discharged directly into the MHPA, and invasive species shall not be planted adjacent to the MHPA.
- Buildings shall be set back a minimum of 25 feet from the MHPA.
- Views shall be oriented toward the MHPA and building entrances shall be oriented toward the interior of the ECITC.
- A ten-foot wide section of landscape screening shall be installed between the ECITC and adjacent residential uses.
- Buildings shall be designed to primarily accommodate single-tenant corporate office uses. Ancillary uses shall be limited to 20 percent of the ECITC area. Multi-tenant uses shall be limited to that allowed by project-specific traffic studies.



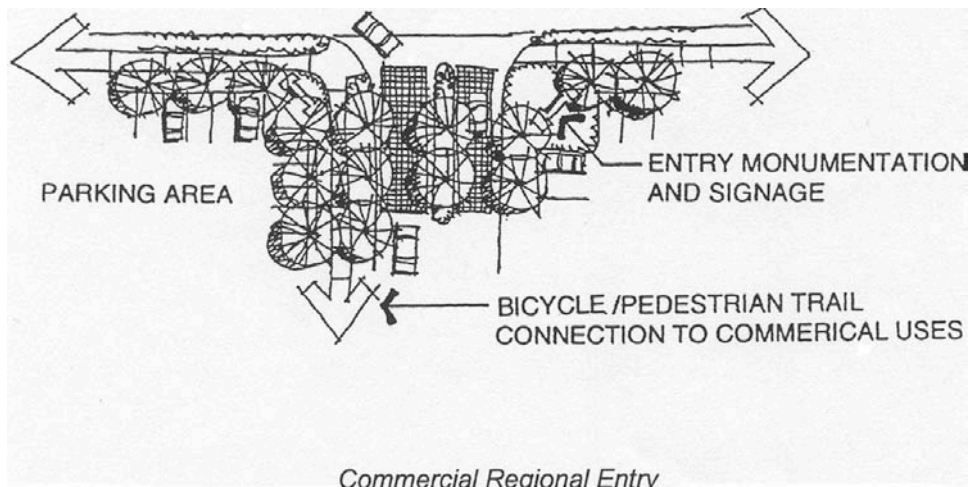
Employment Center Concept

5.6.5 Commercial Regional Policies

Discretionary review through Planned Development Permits shall ensure that Commercial Regional developments adhere to the following guidelines;

- Developments shall be integrated with surrounding land uses where possible; however, landscaped buffer areas, walls or a combination of both shall provide effective visual and noise attenuation between different land uses, loading docks and trash areas; landscaped buffers which incorporate a combination of tree and shrub planting shall be provided along Camino Ruiz and Carmel Mountain Road to screen and soften views of parking areas and buildings; parking lots shall be planted with trees to screen and soften large expanses of parking.

- Buffers and walls shall not prevent pedestrian circulation; an integrated pedestrian circulation system shall be provided which includes convenient pedestrian pathways, crosswalks, and benches; bicycle access into the development and bicycle storage facilities shall also be provided; trees shall be used as directional elements to help identify entryways and circulation.



- Architectural and landscaping themes shall be consistent throughout the development; corporate identification is allowed, but must be consistent with the rest of the development; a unified architectural theme shall be developed for the entire site that is compatible with the architectural design policy contained in the Rancho Peñasquitos Community Plan which states, "Commercial development should enhance the community's appearance by using an appropriate architectural style in buildings, signs and street furniture, such as Spanish mission style (adobe, stucco, tile) and Old West ranch style (wood siding and wood shingles)."
- The appearance of all building sites is especially important given that the site is surrounded by roads and a freeway; a combination of building articulation, building facades, texturing, painting and landscaping shall be used to provide visual variation in building elevations when viewed from the surrounding streets and freeways.
- Long expanses of walls shall be visually reduced by using a combination of: interconnection and overlapping of building forms and heights; horizontal lines or textures; landscaping and clustering of small-scale elements such as planter walls.
- Rooftop equipment and appurtenances shall be screened from views by using parapets or other roof forms.
- The following elements shall be avoided: chain link fencing with barbed wire (for security reasons, barbed wire in combination with solid masonry walls, plaster surfaced walls or wooden fences may be acceptable); "stuck on" mansard roofs on a small portion of the roofline; and exposed roof drains.

- Light, neutral or other approved colors, shall be used on buildings to help reduce their perceived size; contrasting trim and horizontal color bands may help break up the vertical monotony of tall flat walls.

Chapter Six

Community Facilities

CHAPTER SIX: COMMUNITY FACILITIES

GOAL:

Assure provision of safe and efficient public services concurrent with need.

6.1 IMPLEMENTING PRINCIPLES

- Site schools and neighborhood parks to enhance neighborhood identity and to maximize access by pedestrians and non-motorized transportation modes.
- Ensure that facilities are designed to complement community architecture and landscape.
- Pursue joint use agreements with public utilities to permit use easements.
- Estimate funding costs for school facilities needs based on full buildout of proposed Subarea IV land use designations.
- Base design standards for school facilities on Poway Unified School District state Board Policy.
- Provide for the adoption of the schools financing and phasing plan before accepting any application for the rezoning of property or approve any permit applications to increase density entitlements within the Subarea.
- Provide for execution of mitigation agreements and purchase agreements for designated school and neighborhood park sites by individual applicants before accepting any application for the rezoning of property or approve any permit applications to increase density entitlements for such property.
- Provide turf grass and temporary irrigation as improvements to a portion of the 30-acre community park located in Black Mountain Ranch.
- Provide funding for a Wildlife Care Facility in Black Mountain Open Space Park.

6.2 SCHOOLS

The Poway Unified School District provides elementary, middle and high school facilities for the entire Torrey Highlands Subarea. Torrey Highlands, with 2,600 dwelling units, will generate 1,972 students. Students generated by the project, prior to buildout, will be accommodated by schools in the vicinity of Torrey Highlands.

Table 6-1 lists the population generation factors established by the Poway Unified School District as applied to development occurring within the District.

6.2.1 School Plan

Buildout of Torrey Highlands will create the need for 1.15 elementary schools, 0.30 middle schools and 0.28 high schools (**Table 6-1**), based on student generation rates utilized by the Poway Unified School District. One elementary

school, in addition to the existing Adobe Bluffs Elementary School, will be provided within Torrey Highlands. Mesa Verde Middle School was recently constructed in the southeast portion of Torrey Highlands with an additional middle school designated in the extreme northeast corner of the subarea. A high school has been tentatively located west of Camino Ruiz in the central portion of Torrey Highlands.

The District cannot guarantee that students at any grade level generated from Torrey Highlands will be able to be accommodated in the schools located in the neighboring community of Rancho Peñasquitos. The District reserves the right to bus students to schools where space for portable classroom buildings is available.

**TABLE 6-1
TORREY HIGHLANDS STUDENT GENERATION**

Grade	Single-family 2,122 DUs		Multifamily 478 DUs		Total Students	Capacity of an Individual School	Percent Capacity
	Generation Rate	Students Generated	Generation Rate	Students Generated			
Elementary (K-5)	0.34	721	0.175	84	805	701	1.15
Middle (6-8)	0.18	382	0.07	33	415	1,380	0.30
High (9-12)	0.29	552	0.10	48	600	2,140	0.28
Total					1,820		

Child Care Center

The Plan designates a location for a one-acre child care center to be owned and operated by the Poway Unified School District (PUSD). The center will be located within the elementary school site to be constructed in the Torrey Highlands community. This location will provide easy access to the greatest number of residents and provide for economy of trips for families with children in the adjacent schools. The center will be designed to have separate access, parking and play areas from the elementary school. The child care center will be adjacent to a five-acre neighborhood park. The center will provide before and after school care for school-aged children and also possibly all day care for preschool children. PUSD policies and regulations shall be administered at the center.

Elementary Schools

Adobe Bluffs, located within the Torrey Highlands Subarea, currently has space available for students. However, other neighboring elementary schools in the Peñasquitos area are operating at or above capacity and the District will be undertaking an attendance boundary adjustment to balance enrollments at these

schools. As part of this effort, Adobe Bluffs could be at or over capacity, in which case, children from Torrey Highlands would likely be located in portable classroom facilities at Adobe Bluffs or some other assigned elementary school campus until such time as population thresholds are reached sufficient to generate financing dollars to construct the elementary school located in the central neighborhood of Torrey Highlands.

An elementary school will eventually be located north of the Local Mixed Use Center. The school site will be ten acres in size, with an additional one acre for an associated child care center for the central school. A five-acre neighborhood park will be located between the elementary school and the high school. Locating the school near the higher residential densities of the Local Mixed Use Centers and the low-density residential areas benefits the greatest number of children by minimizing travel distances and street crossings. Additionally, major pedestrian and bicycle corridors will converge on the Local Mixed Use Center, and thereby provide connections between schools and the majority of the community.

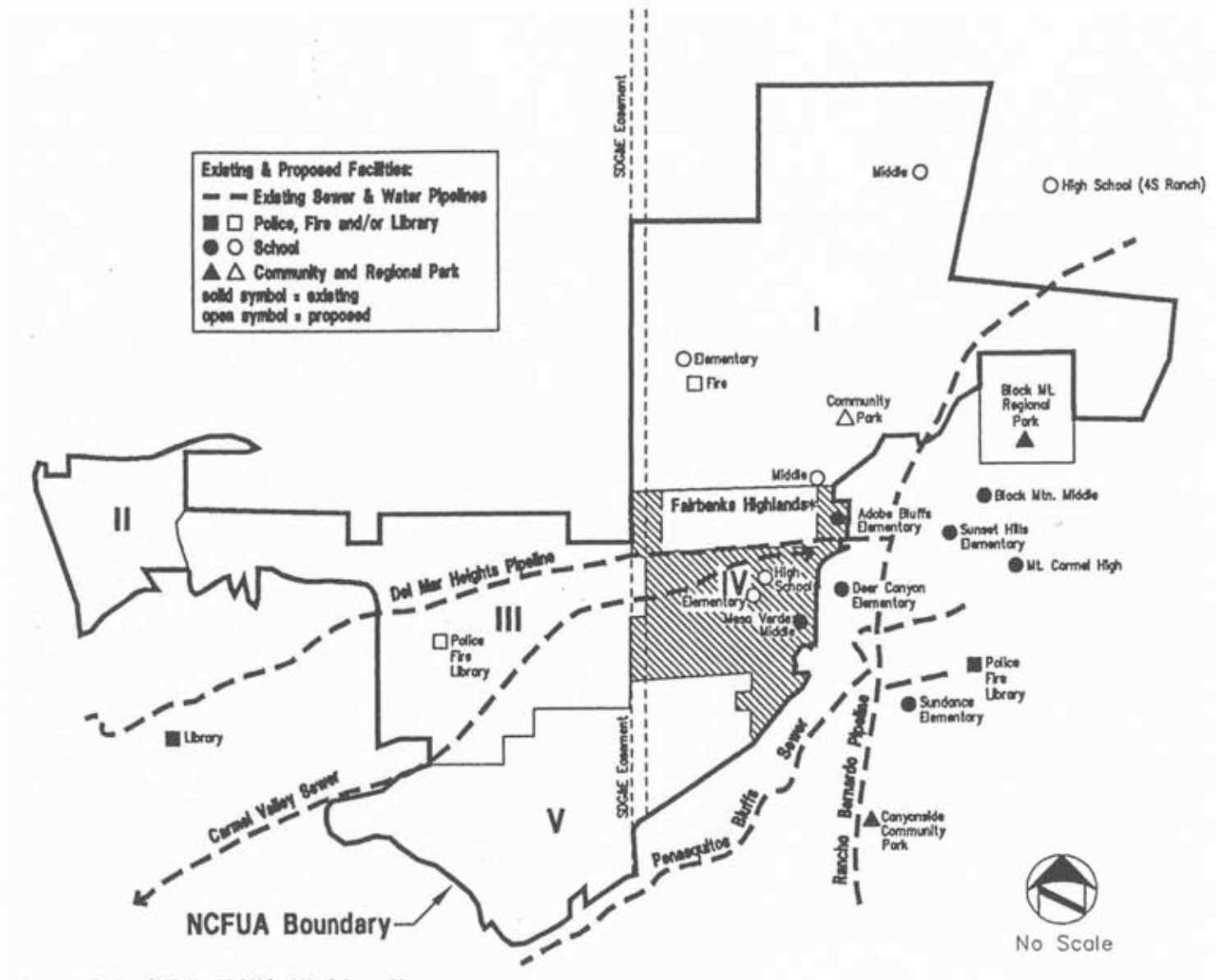
Middle Schools

Although Mesa Verde Middle School was recently constructed in the southeast portion of Torrey Highlands, it is operating above capacity. It is anticipated the Torrey Highlands project, as outlined, will generate a need for more than a quarter of a middle school. It cannot be determined at this time whether the Mesa Verde campus will have space available to add additional portable facilities to house students from this project on an interim basis. Black Mountain Middle School, located at approximately 3.5 miles from Torrey Highlands, in the Peñasquitos community, is more likely to have space for portable classroom additions to serve students on an interim basis until school construction thresholds are met. The District cannot guarantee that students from this project will attend Mesa Verde Middle School.

A second middle school site is located adjacent to, and within, Torrey Highlands. Approximately ten acres of a Middle School site is located within Fairbanks Highlands, approximately 15 acres is located within Subarea I and less than one acre of the middle school site is located in Torrey Highlands.

High School

The proposed future high school, located on the eastern boundary of the Central neighborhood, will be required to accommodate new high school students generated by Torrey Highlands and other areas within the Poway Unified School District. Since all high schools in the District are now operating above capacity, it is anticipated that students from Torrey Highlands will be accommodated on an interim basis in portable facilities at the Mount Carmel campus. High school students from the Torrey Highlands Subarea will eventually be accommodated by a new high school to be located west of Camino Ruiz, within the boundary of



*Approved Project (DEP No. 88-0141) within Subarea IV.

Existing and Proposed Community Facilities

6-1
FIGURE

Torrey Highlands Subarea Plan



Torrey Highlands. Approximately 70 acres have been allocated for the high school. If Poway Unified School District determines that a high school site is not needed within Torrey Highlands, the site will be developed as low-density residential development. Development of the school site as low-density residential will require a rezoning of the property to implement that designation.

School Facilities Master Plan and Financing Plan

Development projects within Torrey Highlands will be required to comply with school financing and phasing identified by the District in its School Facilities Master Plan and Financing Plan (the Schools Financing Plan) which is incorporated into this Subarea Plan as **Appendix A**. The Schools Financing Plan is subject to adjustment from time to time to reflect the educational policies adopted by the Board of Education of the District. As provided in the Schools Financing Plan, the District will form a Community Facilities District (CFD) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, to provide a method of phasing and financing school facilities required to accommodate development of the Subarea Plan.

6.2.2 School Policies

In addition to the policies outline in Section 8.3 of the Framework Plan, the Torrey Highlands Subarea Plan has identified the following as school policies:

- Public elementary schools shall be precisely located in the Subarea Plan based upon site standards established by the School District and the state of California to provide safe and direct pedestrian access for a maximum number of students.
- Pedestrian walkways and bikeways shall be designed to provide safe and direct access to elementary schools and middle schools.
- Public school facilities shall be available for use by adults for educational programs, civic and cultural activities and recreational uses.
- Child care facilities shall be sited in conjunction with elementary schools and be designed to have separate access and parking from the elementary school.

6.3 PARKS AND RECREATION

The General Plan provides guidelines and standards for population-based and resource-based parks and facilities.

6.3.1 Park Plan

Torrey Highlands will provide the following park and recreational facilities for the community:

- Two five-acre neighborhood parks.
- A 270-acre corridor within a larger resource-based preserve.
- Approximately 2.6 miles of unpaved hiking and equestrian trails, 1.7 miles of improved multi-purpose trails and 4.2 miles of paved multi-purpose trails.
- Passive and active open natural open spaces.
- Urban open spaces.
- Turf grass and temporary irrigation will be provided as improvements to a portion of the 30-acre community park located in Black Mountain Ranch as described in the Torrey Highlands Public Facilities Financing Plan.

Neighborhood Parks

Torrey Highlands will provide for two five-acre neighborhood parks: one five-acre park located between the high school and elementary school and a second five-acre park located in the Northern Neighborhood adjacent to the MSCP Preserve. Both neighborhood parks will be sited within easy pedestrian access to residential areas and will be connected to schools, community centers and open space by using sidewalks, trails and bicycle paths.

Community Parks

Torrey Highlands will provide its proportionate share of funding for the construction of a 30-acre community park in the NCFUA based upon the Torrey Highlands Public Facilities Financing Plan (PFFP). Its location will be north of Torrey Highlands, in the Black Mountain Ranch development (Unit 27, Lot 73 in the Black Mountain Ranch Development Agreement). Torrey Highlands will also provide turf grass and temporary irrigation as improvements to a portion of the community park as indicated in the PFFP.

6.4 LIBRARY

Community libraries should serve a resident population of 30,000 and should be established when a service area, which is expected to grow to 30,000 residents within 20 years of library construction, has a minimum population of 18,000 to 20,000. Branches should be located in areas of intense people activity and where trips can be combined with other daily trips.

6.4.1 Library Policy

Torrey Highlands will provide its proportionate share of funding for library facilities in the Pacific Highlands Ranch development based on the Torrey Highlands Public Facilities Financing Plan.

6.5 LAW ENFORCEMENT

Primary law enforcement services will be provided by the City of San Diego Northeastern Division Substation located at 13396 Salmon River Road in Rancho Peñasquitos (**Figure 6-1**). In 1996 the City of San Diego Police Department maintains a citywide ratio of 1.65 sworn officers per 1000 residents, with a citywide average response time of seven minutes for priority 911 calls. Response times for non-priority calls vary according to time of day and unit availability.

6.6 FIRE PROTECTION

The City of San Diego Fire Department will provide Torrey Highlands with fire protection services. **Table 6-2** provides the current response times for fire stations that provide service to Torrey Highlands.

6.6.1 Fire Protection Plan

The City of San Diego Fire Department has determined that no fire station is required within Torrey Highlands. Two new fire stations in Black Mountain Ranch to the north, one station anticipated in Subarea III to the west, and Station 40 in Rancho Peñasquitos, are expected to allow the Fire Department to achieve a six-minute first response time (see **Figure 6.1**). The Torrey Highlands community will be primarily served by the station located in south Black Mountain Ranch.

**TABLE 6-2
CITY OF SAN DIEGO FIRE STATIONS**

Station	Location	Response Time
24	13077 Hartfield Avenue	7.8 min.
41	4914 Carroll Canyon Road	15.0 min.
35	4285 Eastgate Mall	16.1 min.

* Response times are approximate. Measurements taken from vicinity of the intersection of Black Mountain Road and Clarkview Lane. SOURCE: City of San Diego Fire Department, 1996.

6.6.2 Fire Protection Policies

Torrey Highlands will provide its proportionate share of funding for fire protection facilities in Black Mountain Ranch based on the requirements established for the NCFUA.

6.7 PUBLIC UTILITIES

The San Diego Gas and Electric Company (SDG&E) maintains a 100-foot wide easement. The easement runs in a north/south direction along the western border of Torrey Highlands and contains two alternating current (AC) high-voltage overhead transmission lines identified as TL-13825 and TL-23021. TL13825 is a 138 kV circuit,

supported by wooden poles, and TL-23021 is a 230 kV circuit, supported by steel tower support structures for electric transmission lines along the western border of Torrey Highlands. In addition to the easement, SDG&E owns a 3.67-acre parcel of land in the northwest portion of the community that may be developed as a substation should a future need develop.

6.7.1 Public Utilities Plan

Water Service

Water service within Subarea IV will be provided by the City of San Diego Water Utilities Department. Currently, existing water facilities in the vicinity of Subarea IV have no capacity to serve any new development. Existing water transmission facilities in the vicinity of Subarea IV include the Del Mar Heights Pipeline traversing the northerly portion of the subarea, the Rancho Bernardo Pipeline to the east and the Green Valley Pipeline to the west. The only new transmission facility proposed at this time is the Carmel Mountain Road Pipeline. It may traverse the southeasterly portion of Subarea IV in Carmel Mountain Road and appropriate easements.

A final draft of the North City 610/712 Water Study has been completed (dated December 1997) which identifies needed water transmission and storage facilities to provide adequate capacity to undeveloped portions of Carmel Valley, Sorrento Hills and the entire FUA This study identifies a 16-inch transmission line in Subarea IV in the right-of-way of Camino Ruiz (610 Zone).

Prior to any development within Subarea IV, all applicable water facilities must be constructed. In addition, developers will be required to provide a water study showing the proposed water distribution system for Subarea IV. The proposed water system shall be designed and constructed to the Water Utilities Department's most current standards. If proposed facilities do not meet the required standards, then such facilities shall be private.

Sewer Service

Sewer service will be provided by the City of San Diego Metropolitan Wastewater Department. The existing sewer facility in the vicinity of Subarea IV is the Carmel Valley Trunk Sewer located within McGonigle Canyon. All flows generated from Subarea IV will flow into the Carmel Valley Trunk Sewer which flows into the Metropolitan Sewerage System.

Prior studies indicate capacity is available for sewer service for Subarea IV, However, prior to any development within Subarea IV, the developers will be required to provide a sewer study showing the proposed sewer system for Subarea IV. All public sewer facilities shall be designed and constructed to the Water Utilities Department's most current standards. If proposed facilities do not meet

the required standards, then such facilities shall be private. The cost of operating and maintaining non-regional public sewer pump stations will be borne by the appropriate homeowners' association or other private entity. All septic systems must be approved and permitted by the San Diego County Department of Health Services.

Solid Waste

Solid waste generated within Torrey Highlands will be transported to the Miramar Landfill, which is owned and operated by the City of San Diego. As of 1996 the Miramar Landfill has a total remaining capacity of 14 million cubic yards. In order to reduce the amount of solid waste that is processed at landfills, the City of San Diego has adopted a recycling ordinance and Source Reduction and Recycling Element (SRRE). Torrey Highlands will comply with the recycling measures. In addition, a recycling center will be an allowed use within the Employment Center.

Gas and Electric Service

San Diego Gas and Electric Company (SDG&E) will provide gas and electric service to Torrey Highlands. A 100-foot wide electrical transmission line easement contains both a 138 and 230 kV transmission line. The only existing source of gas and electric service for the project site is from the underground electric and gas feeder system, which extends south along Carmel Mountain Road and terminates at Sundance Avenue.

Telephone Service

Telephone service for Torrey Highlands will be provided by Pacific Bell Telephone Company. Existing telephone service lines are mounted on poles along Black Mountain Road.

6.7.2 Public Utilities Policies

- Based on current state standards, schools shall be sited a minimum of 400 feet from transmission lines; though the health and safety effects of EMF are speculative, residential uses are considered incompatible with the industrial uses of SDG&E facilities; site planning shall be in accordance with **Section 5.6.3**.

Chapter Seven

Housing

CHAPTER SEVEN: HOUSING

GOAL:

Provide an economically and socially diverse community through provision of a variegated range of housing styles, tenancy types and prices.

7.1 IMPLEMENTING PRINCIPLES

- Provide the fair share of affordable housing and housing for persons with special needs, and consistent with the City’s Housing Element and the Regional Fair Share Distribution.
- Recognize the need for group housing and housing for persons with special needs or desires, including senior housing, congregate care for the elderly, single-room occupancy hotels, housing for temporary workers, and housing with supportive services.
- Apply fair housing practices in sale, rental and advertising of housing units.

7.2 AFFORDABLE HOUSING

Torrey Highlands is subject to the affordable housing requirements in effect for the NCFUA under the City’s Framework Plan provisions.

7.2.1 Housing Requirements

The NCFUA Framework Plan recommends the provision of housing for low-income families, as defined by the San Diego Housing Commission. All affordable housing units must remain affordable for the life of the unit and should be phased proportionate to development of market rate units. Fulfillment of this objective may be satisfied by:

- Providing no less than 20 percent of housing units for occupancy by, and at rates affordable to, families earning no more than 65 percent of median area income adjusted for family size, or
- Dedicating developable land of equivalent value.
- Residential development of ten or fewer housing units and development located in the very low-density residential category may, at the direction of the City, satisfy the affordable housing requirements by paying an in-lieu fee, equivalent to the cost of achieving the required level of affordability, into a NCFUA Affordable Housing Trust Account administered by the San Diego Housing Commission; funds collected in this manner may be applied to affordable housing needs in the NCFUA, or within other areas which the City Council may deem appropriate for these affordable housing funds.

7.2.2 Housing Policies

- Comply with the affordable housing requirements in effect for the NCFUA under the City's Framework Plan provisions.
- Retain funds collected by the City in lieu of construction of affordable housing for future development or acquisition of affordable units within the NCFUA, or other communities which the City Council may deem appropriate for these affordable housing funds.
- Provide a variety of housing types and prices within the Local Mixed Use Center to enable affordability for low- and moderate-income households.
- Encourage development of senior housing, especially within and near the Local Mixed Use Centers, where location next to services, goods and transit provide good siting criteria.
- Encourage use of companion units as an integral part of residential development within and adjacent to the Local Mixed Use Center.
- Provide an affirmative action marketing program concurrent with all residential tentative maps involving more than 20 dwelling units, as required by City of San Diego Council Policy 600-20.

Chapter Eight

Implementation

CHAPTER EIGHT: IMPLEMENTATION

GOAL:

Provide for the comprehensive development of Torrey Highlands consistent with City procedures and assure the provision of adequate public facilities and services to serve residential, commercial and institutional uses in a timely manner.

8.1 IMPLEMENTING PRINCIPLES

- Provide recommendation for the implementation of the land use and development proposals set out in this Plan.
- Phase development in a manner which considers the marketplace, the available community and transportation facilities and the development in surrounding communities.
- Provide for the timely financing of public facilities including buildings, recreational improvements, streets, and utilities, for both capital and operating and maintenance costs.
- In implementing this Plan, uphold the goals and principals embodied in the General Plan and City Council policies, as reflected in the objectives and proposals of this Plan.

8.2 REQUIRED APPROVALS

8.2.1 Subarea Plan

The Subarea Plan was submitted to the Planning Commission and the San Diego City Council for review and approval. After a recommendation of approval from the Planning Commission, the City Council adopted the Torrey Highlands Subarea Plan as an amendment to the North City Future Urbanizing Area Framework Plan on August 5, 1996.

8.2.2 Phase Shift

Prior to development in the Torrey Highlands community consistent with the land use plan, a Phase Shift must occur which transfers the land from the General Plan designation of Future Urbanizing Area to Planned Urbanizing Area. According to Council Policy 600-30, the Phase Shift must first be approved by City Council, then submitted to a vote of the people. If the Phase Shift ballot measure is approved by a majority vote of the people, subsequent planning and development in the Subarea may proceed according to the conditions and requirements of the approved Subarea Plan. If the Phase Shift ballot measure is unsuccessful, the Phase Shift applicant may choose to pursue a subsequent Phase Shift effort; in the meantime, property owners within the Subarea may proceed with development applications consistent with the existing zoning.

8.2.3 State Route 56 Alignment

Final selection of the alignment for SR-56 must occur prior to discretionary approval of any development in the Torrey Highlands community which is affected by the final alignment.

8.3 FACILITIES

8.3.1 Public Facility Improvement

A Public Facilities Financing Plan (PFFP) and Development Impact Fee (DIF) has been prepared for the entire Subarea IV. The PFFP identifies infrastructure improvements and other public facilities required to serve the projected population based on ultimate buildout of the Subarea. The timing of the improvements is tied to units constructed. The funding is tied to revenue generated by units constructed, including subdivision exactions, facilities fees and other development fees, by assessment districts, and/or by maintenance districts. Development may occur faster than the time frames anticipated but no faster than the thresholds identified. For instance, if the market allows construction to proceed with 200 units more than is anticipated by the estimates in the PFFP for the year 1997, the units may proceed only so long as the infrastructure and other public facilities are built to accommodate them.

8.3.2 School Facilities

Development projects within Torrey Highlands will be required to comply with school financing and phasing as set forth in a School Facilities and Financing Plan (see **Appendix A**) prepared expressly for Subarea IV, and in concert with the Poway Unified School District (PUSD). No development within Subarea IV may occur prior to inclusion of the School Facilities and Financing Plan. No owner of land in Subarea IV may apply for the rezoning of property or any other permit to increase density entitlements for such property unless such owner has provided for the full mitigation of development impacts on the need for school facilities by (i) the execution of a school mitigation agreement between PUSD and the property owner seeking development approvals and (ii) if such owner has land designated as a school site, the execution of a school site purchase agreement consistent with **Section 8.6.1** between PUSD and the property owner seeking development approvals. The Plan includes elementary school, middle school and high school sites within Torrey Highlands, which are in addition to the elementary school and middle school already located within the area. Provisions for the acquisition of property for the eventual construction of the schools is contained in the School Facilities and Financing Plan consistent with the provisions of the Framework Plan. Further discussions of school facilities are provided in **Chapter 6, Community Facilities**.

8.3.3 School Mitigation Condition

All impacts of development of the Torrey Highlands portion of Subarea IV on the facilities needs of the Poway Unified School District (the “District”) shall be fully mitigated. Prior to processing any application for rezoning or any permit to increase density entitlements within the Subarea, the City shall include as **Appendix A** of this Plan, a School Facility Financing Plan which provides that each property owner within the Subarea shall enter into a mitigation agreement with the District (the “Mitigation Agreement”) setting forth the terms and methods of fully mitigating impacts of development on the District through participation in a community facility district (CFD) pursuant to the Mello-Roos Community Facilities Act of 1982. Any owner of property within the Subarea Plan who seeks a building permit for property at a zoning greater than A-1-10 prior to the inclusion of their property in the CFD shall pay to the District the following amounts for each attached or detached residential unit:

\$18,391 per Detached Residential Unit

\$7,891 per Attached Residential Unit

The amounts shall be increased as of January 1 of each year commencing January 1, 1997 by the percentage change in the “Index” and in the manner provided in the Mitigation Agreement. Such impacts will be fully mitigated only if the Mitigation Agreement is fully performed. Therefore, continued performance under the Mitigation Agreement shall be a condition of approval by the City for any future zoning decision, tentative map, subdivision map, building permit or other development entitlement approval or any portion thereof (collectively, “entitlement”). Within ten (10) days following written request delivered to the District by the City or any applicant, subject to holidays and delays beyond reasonable control of the District, the District shall submit to the certificate indicating the status of the continued performance of the Mitigation Agreement.

8.4 FUTURE ACTIONS

8.4.1 Zoning

At the time of the Plan preparation and approval, the property within the subarea is zoned A-1-10, an agricultural zone permitting one dwelling unit per ten acres. Neither this Plan nor a successful Phase Shift shall constitute a rezoning. Uses at densities higher than A-1-10 shall require a rezoning application. Property owners shall be required to make application for rezoning consistent with the Plan’s land use designations in order to develop at densities greater than allowed in the A-1-10 zone as contemplated by the Plan. Approval of rezoning applications may be granted only if such application is consistent with the policies and requirements of the Framework Plan, this Plan and applicable environmental documents.

In 1991, the City of San Diego began work on a comprehensive revision of its Municipal Code (Zoning Code Update) as it relates to permit processing, land uses and development regulations. The new code, upon adoption, will be known as the Land Development Code. The task of the Zoning Code Update was to make

changes to permit processing procedures, revisions to land uses (the remaining and reformatting of existing zones and the creation of new zones) and establish refined development regulations. The Land Development Code, implemented January 1, 2000, renamed and reformatted zones. The new zones will be applied to property only upon an application by individual property owners to rezone from existing A-1-10 zoning.

8.4.2 Environmental Review/Resource Protection Ordinance

The Environmental Impact Report (EIR) prepared for consideration of this Plan is intended to be a comprehensive review of the impacts associated with development of the plan area. Future discretionary actions required to implement the Plan would be subject to environmental review pursuant to the California Earthquake Quality Act (CEQA).

The Plan qualifies as alternative compliance with the City Resource Protection Ordinance (RPO) through implementation of the Environmental Tier, the proposed MSCP and other City, state and federal regulations governing resource preservation and project mitigation. Subsequent discretionary actions will be reviewed for consistency with the Environmental Tier and the MSCP as established by the Plan. If consistency with the Plan and RPO or successor regulation, is established by the Planning Commission, future Resource Protection Permits may be reduced or eliminated.

8.4.3 Planned Developments

The Plan requires approval of Planned Development Permits (PDP) for specific areas of the Plan. The purpose of the additional level of review is to facilitate development toward imaginative and innovative planning to implement the goals and objectives of the Plan. The Local Mixed Use Center will require approval of PDPs concurrent with rezoning of the property, unless a citywide mixed use zone is established that will effectively guide the desired mix of development. In addition, residential areas throughout Torrey Highlands shall develop pursuant to PDPs to achieve clustered housing and concentrated open spaces. The City of San Diego NCFUA Framework Plan describes planned development requirements and processing guidelines which should be used in the Future Urbanizing Area including Torrey Highlands. Subsequent to a Phase Shift, those policies established by the City of San Diego for PDPs within planned urbanizing communities shall apply.

8.5 NCFUA CONSISTENCY WITHIN THE FRAMEWORK PLAN

The NCFUA Framework Plan provides a land use plan and policies, as well as underlying standards and guidelines for the Subarea Plans. The Torrey Highlands Subarea Plan provides more detailed and site-specific information relative to the future development and constitutes a comprehensive amendment to the Framework Plan. Both documents will be used to review proposed development, but in instances where there are conflicts the Torrey Highlands Subarea Plan shall prevail.

8.6 PURCHASE AGREEMENTS

8.6.1 School Sites

Prior to consideration of any application for rezoning or application for approval of any permit to increase density for property, any portion of which is designated as a school site, purchase agreements (each fully executed by the relevant owner and Poway Unified School District) shall be delivered to the City. These purchase agreements (described in **Section 8.3.2** above) shall commit owners of designated school sites to sell those sites to School District and commit the School to buy those sites. The terms of the purchase agreements shall be negotiated between the relevant owner and School District, however, the purchase amount shall not exceed the amount set forth in the School Facilities Financing Plan and the acquisition date shall be no sooner than when the acquisition funding is provided for in the School Facilities Financing Plan.

8.6.2 Park Sites

In order to implement the Subarea Park Plan, purchase agreements shall be offered to the City. These purchase agreements shall commit owners of designated park sites to sell those sites to the City and commit the City to buy those sites. The terms of the purchase agreements shall be negotiated between the relevant owner and the City, however, the purchase amount shall not exceed the amount set forth in the Facilities Financing Plan and the acquisition date shall be no sooner than when the acquisition funding is provided for in the Facilities Financing Plan.

Appendices

**TORREY HIGHLANDS SUBAREA PLAN
APPENDIX A**

**SCHOOL FACILITIES
AND FINANCING PLAN
OF THE
NORTH CITY FUTURE URBANIZING AREA
SUBAREA IV - TORREY HIGHLANDS**

Prepared By

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13626 Twin Peaks Road
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November 6, 1996

Table of Contents

I. INTRODUCTION	1
II. EDUCATIONAL GOALS AND POLICIES	2
1. All Students Learning	2
2. Parents as Partners	2
3. Excellence in All We Do.....	2
4. Emphasis on Basic Skills	3
5. Safe, Orderly and Attractive Environment.....	3
6. Effective Management of Resources	3
7. Competent and Caring Staff	3
8. Staff Participation in Decision Making.....	4
III. FACILITIES IMPACT ON THE POWAY UNIFIED SCHOOL DISTRICT ...	4
1. The School District's "Future Development Area".....	4
2. The NCFUA and Torrey Highlands.....	4
3. Torrey Highlands Residential Development	5
4. Enrollment Projection Methodology.....	5
5. Total Student Impact	6
6. Permanent School Facility Impact.....	6
7. School Site Needs and Identification	6
IV. PLAN DEVELOPMENT AND IMPLEMENTATION	7
1. Framework Plan Requirements.....	7
2. Mitigation Agreement and Transfer Agreements	8
3. Timing of School Facilities	9
A. Construction of Buildings.....	9
B. Acquisition of Land.....	10
4. Subarea Plan School Facilities Provisions	10
A. Subarea Plan Text	11
B. Mitigation Measures.....	13
C. Phase Shift Ordinance	14
5. Summary of School Facilities Provisions	14
6. Estimated New School Facilities Dollar Impact.....	15
7. Land Acquisition Goals.....	16
8. Land Cost Assumptions	16
9. Revised Mitigation Payment and Special Tax Amounts.....	17
10. Future Implementing Actions	17
EXHIBIT 1: MITIGATION AGREEMENT	19

SCHOOL FACILITIES AND FINANCING PLAN OF THE NORTH CITY FUTURE URBANIZING AREA SUBAREA IV - TORREY HIGHLANDS

I. INTRODUCTION

This School Facilities and Financing Plan (Schools Financing Plan) has been prepared by the Poway Unified School District (School District) to determine the impacts of development of the Torrey Highlands Subarea Plan (Subarea Plan) in the North City Future Urbanizing Area (NCFUA) on the school facilities needs of the School District and to provide a method of financing and delivering school facilities consistent with the policies of the NCFUA Framework Plan, February 1995 (Framework Plan) adopted by the City of San Diego (City) which forms a portion of the City's General Plan and Progress Guide (General Plan).

The Framework Plan requires the School District to prepare a school facilities financing plan in cooperation with the City and Subarea IV property owners. The Framework Plan requires that the precise location of all selected public school sites be incorporated into each Subarea Plan. In addition, Framework Plan Section 8.3f states that:

“No Subarea Plan will be adopted by the City Council without a letter from the relevant school district(s) indicating that the School District concurs with siting, phasing, and financing plans established by the Subarea Plan or by a concurrent school facility planning process. No subarea plan will be adopted without an agreement with the respective school district to compensate for any additional impact the development may have on schools.”

To that end, a cooperative effort was launched between the City, the Applicant, other landowners within the Torrey Highlands portion of Subarea IV and the School District in the early stages of the planning for the Subarea Plan. Consultations were initiated to determine school site locations in the Subarea based on criteria established by the School District and by the State of California.

This Schools Financing Plan is the product of that effort and is incorporated as Appendix A to, and is an integral part of, the Subarea Plan. (See Subarea Plan Section 8.3.2.) This Schools Financing Plan draws upon and forms a part of the School District's Districtwide Master Plan, and is based upon extensive analysis of demographic and enrollment trends in existing and other proposed future development. It considers existing facilities utilization, other future facilities needs and future financial resources. It is heavily influenced by the School District's educational philosophy. As with the Districtwide Master Plan, the Schools Financing Plan is intended to be a dynamic document as the Subarea Plan is implemented after a Phase Shift occurs.

II. EDUCATIONAL GOALS AND POLICIES

The Poway Unified School District (School District) is located in the northeastern portion of San Diego County. More specifically, the School District serves the communities of Poway, Rancho Bernardo, Rancho Peñasquitos, Carmel Mountain Ranch, Sabre Springs and a portion of the county of San Diego. The School District's student enrollment is approximately 30,000 students. These students are currently served in 19 elementary schools, five middle schools, three high schools, and one continuation high school. Over 60 percent of the School District's enrolled students live in the City of San Diego.

The overall goal of the School District is "to ensure that each student will master the knowledge and develop the skills and attitudes essential for success in school and in a diverse society." The eight core values listed below are utilized by the School District to accomplish its mission:

1. All Students Learning

We are committed to all our students learning. We will ensure that each student, to the best of his or her ability, will master the knowledge and develop the skills and attitudes essential for success in school and in a diverse society.

2. Parents as Partners

We are committed to promoting student learning through parent partnerships that...

- Involve parents in their child's education.
- Foster shared responsibility among students, parents and staff.
- Link families with school and community resources.
- Encourage broad-based representation in the decision-making process.

We believe parents make a difference.

3. Excellence in All We Do

We are committed to...

- Our collective contribution to learning.
- High levels of performance.
- Adapting to the needs of our diverse population.
- Pride throughout our organization.

4. Emphasis on Basic Skills

The basic skills necessary include, but are not limited to, the development of...

- Mastery of the basic skills of computation, writing, reading, spelling and speaking.
- An understanding of, and commitment to, moral precepts and ethical behavior.
- Self-confidence and self-esteem.
- Research skills.
- Civic understanding.
- Consumer understanding.
- Career understanding.
- Effective decision-making processes.
- Careful stewardship of natural resources.
- Physical and mental health including knowledge concerning sex and social diseases.
- Appreciation of art, music and foreign languages.
- A thirst for knowledge.
- Respect for others and for property.
- Understanding the risks of drug, alcohol, and tobacco use and the development of an attitude against its use.

Simply, the goal of the School District is to ensure that all students and staff optimize their knowledge and acquire the skills necessary to be successful in society.

5. Safe, Orderly and Attractive Environment

We are committed to providing and maintaining a safe, orderly and attractive environment which promotes productivity and stimulates learning.

6. Effective Management of Resources

We are committed to aggressively seeking and to creatively and effectively managing our resources. These include students, community, finances, technology, time, facilities and other physical resources.

7. Competent and Caring Staff

We are committed to selecting, developing and supporting the best possible staff that...

- Understands and contributes to the learning process.
- Cares about students.
- Performs at a high level.

- Respects and supports others.
- Acts in an ethical manner.
- Seeks improvement through continuous learning.
- Communicates appropriately and effectively.
- Values the uniqueness of each individual.

8. Staff Participation in Decision Making

We are committed to making effective decisions through the extensive involvement of staff affected by the decision.

III. FACILITIES IMPACT ON THE POWAY UNIFIED SCHOOL DISTRICT

1. The School District's "Future Development Area"

The scope of the school site location and planning decisions contained in this Schools Financing Plan draws on information and planning decisions made in the context of the Districtwide Master Plan. The Master Plan provides a comprehensive basis for school facilities planning throughout the School District's "Future Development Area" that includes both the City's North City Future Urbanizing Area (NCFUA) and the future development areas north of the NCFUA that are within the land use planning jurisdiction of the County of San Diego (county) and that include the Santa Fe Valley, 4S Ranch and Christopherhill projects. The School District's Future Development Area comprises approximately 6,000 acres of land and current planning data suggest that approximately 14,000 residential dwelling units could be built in the Future Development Area.

2. The NCFUA and Torrey Highlands

The NCFUA is a "Future Urbanizing Area" located in the northwest portion of the City of San Diego (see Framework Plan). The NCFUA contains five Subareas covering approximately 12,000 acres. Subareas I and IV are located entirely within the School District's jurisdiction, as is a small portion of Subarea V which is planned to include mostly open space, but could include 22 single-family housing units as proposed in the environmental impact report issued by the City of San Diego dated April 1996.

The Subarea Plan consists of three distinct neighborhoods, subregional land uses, and a resource protection area. While Subarea IV is approximately 1,520 acres, the Torrey Highlands portion of Subarea IV is approximately 1,134 acres because the 386-acre Fairbanks Highlands portion of Subarea IV, owned by Koll/Signal Landmark, processed a map under the A-1-10 Zone and is not included as part of the Subarea for phase shift purposes. The development impact analysis in this Schools Financing Plan includes only the Torrey Highlands portion of Subarea IV.

3. Torrey Highlands Residential Development

The projected absorption schedule utilized for this Schools Financing Plan was prepared by a consultant retained by the proponents for the Torrey Highlands Subarea IV Phase Shift planning effort. This information is based on input from the City Planning Department, the proponents for the Phase Shift within Subarea IV and their consultants.

Unit Type	Units
Single-family Detached	2,122
Multifamily Attached	478
Total:	2,600

These units are projected to be constructed over a 12-15 year period.

NOTE: Much of this data includes projections over a 12-15 year period and relies on specific development assumptions that may differ from actual development during this period. For example, these projections assume that certain demographic data, such as the absorption schedule, product mix and SGF will be valid over a 15-year period. In addition, this Schools Finance Plan assumes that information regarding educational programs for the School District will stay constant over the same period. Therefore, to maintain as much accuracy as possible, and to consider unforeseen changes in data assumptions, School District educational programs and State statutes, these enrollment projections must be revised periodically as new data and program information becomes available.

4. Enrollment Projection Methodology

In order to analyze the impact of new residential development of Torrey Highlands on the School District, it is necessary to determine the number of students generated per dwelling unit type by Grade Level (K-5 elementary school, 6-8 middle school and 9-12 high school), which are called Student Generation Factors (SGF). The SGF is defined as the number of students generated per dwelling unit for each grade level. SGF calculated for detached and attached dwelling units are obtained by historical and ongoing analysis within the School District that takes into consideration fertility rates and Cohort Survival Factors (e.g., the number of students who progress from one grade level to the next) experienced by the School District in recent years. The SGF as follows.

Grade Level	SGF Detached	SGF Attached
Elementary School (K-5)	.34	.175
Middle School (6-8)	.18	.07
High School (9-12)	.29	.10
Total	.78	.345

5. Total Student Impact

The number of students to be generated by residential development in the Torrey Highlands portion of Subarea IV is calculated by multiplying projected residential development by Student Generation Factors (SGF). The result of this calculation is shown in the following table that summarizes the total student enrollment in the School District by grade level anticipated to be generated from Torrey Highlands and are extracted from the Proposed Absorption Schedules prepared by the School District's financing consultant based on information provided by the Applicant's consultants.

Grade Level	Detached	Attached	Total Number of Students
Elementary School (K-5)	721	84	805
Middle School (6-8)	382	33	415
High School (9-12)	552	48	600
Total Number of Students	1,655	165	1,820

The Proposed Absorption Schedules are maintained by the School District's planning staff and indicate the number of students generated on an annual basis in the Subarea and are separated into elementary, middle and high school grade levels. This data is used to estimate the need for interim facilities and to project the bond financing needs of the School District in order to provide facilities on a timely basis.

6. Permanent School Facility Impact

As a result of the total projected student impact, it is anticipated that mitigation will be required for approximately 1,820 students after buildout. Of the total students, approximately 805 will be elementary school students, 415 will be middle school students and 600 will be high school students. When divided by the adopted school design capacity of 701 for elementary, 1,380 for middle and 2,140 for high, it is anticipated that the project will generate a need for a total number of schools as follows.

Grade Level	Total Number of Students	School Design Capacity	New Schools Required
Elementary School (K-5)	805	701	1.15
Middle School (6-8)	415	1,380	0.30
High School (9-12)	600	2,140	0.28

7. School Site Needs and Identification

In accordance with School District Board Policy 6.30, Section 6.32, Acquisition of School Sites, each school is to be located on sites containing net usable acres as follows.

Grade Level	Minimum Size
Elementary School (K-5)	10 net usable acres
Middle School (6-8)	25 net usable acres
High School (9-12)	60 net usable acres

The minimum size for the elementary school provided in the Subarea Plan was increased to 11 acres to provide additional room for a child care facility consistent with Framework Plan policies. As a result of 805 elementary students (i.e. 1.15 elementary schools) projected for the Torrey Highlands, one 11-acre elementary school site has been located within the central neighborhood of Torrey Highlands.

A middle school site is located on the border of Subarea I and Subarea IV and includes land that must be acquired from Black Mountain Ranch, the Fairbanks Highlands project and some smaller ownerships within Torrey Highlands. It is north of the intersection of Carmel Valley Road and Camino Ruiz.

Based upon the generation of high school students, but more importantly on other planning factors including the location of existing and planned high schools within the School District and the location and dispersion of the existing and projected high school student populations, the School District determined that it was necessary to include a High School Site within the Torrey Highlands area. Figures 4-1 and 4-2 of the Subarea Plan show the proposed land uses for Subarea IV and the proposed sites of the elementary, middle and high school. The existing elementary school and middle school shown on the eastern boundaries of the Subarea Plan are already at or above capacity and it was, therefore, necessary to identify additional school sites to accommodate development impacts of the Subarea Plan.

IV. PLAN DEVELOPMENT AND IMPLEMENTATION

The overall goal of this Schools Financing Plan is to provide a method to assure that the impacts on the need for school facilities generated by the development of Torrey Highlands will be mitigated to a level of insignificance.

1. Framework Plan Requirements

The Framework Plan requires that subarea plans be developed and then submitted to and approved by City Council before an area is submitted to the electorate for possible approval of a Phase Shift. A Phase Shift involves a change in the area's land use category from Future Urbanizing to Planned Urbanizing pursuant to Proposition A. A Phase Shift may only occur if appropriate ballot language is approved by the City Council and placed on a ballot for voter approval.

The Framework Plan specifies a number of required elements to be addressed in a subarea plan. With respect to schools, the Framework Plan contains a number of requirements including the following.

“8.2b A school facility financing master plan shall be prepared by the affected school district in cooperation with the City and landowners. The master plan will consider student generation rates; size; location; and composition of facilities; school district boundary adjustments; transportation routes; facility costs; and funding alternatives.”

“8.2c No subarea plan will be adopted by the City Council without concurrent adoption of designated school, park, library, and fire station sites to sell those sites to the relevant school district(s) or the City. The purchase agreement shall set the price so that it is equal to the market value of the site(s) based on uses allowed by zoning regulations in place prior to the time the subarea plan is adopted, plus interest paid at an agreed-upon rate from the date of the Agreement to the date of the actual purchase. The purchase agreement(s) shall specify that if the City or school district(s) purchases the land at the stated price, the owner(s) will be permitted to develop the remainder of their property as specified in the subarea land [sic, plan], subject to relevant City, state and federal regulations.”

“8.3f No subarea plan will be adopted by the City Council without a letter from the relevant school district(s) indicating that the District concurs with siting, phasing and financing plans established by the subarea plan or by the concurrent school facility planning process. No subarea plan will be adopted without an agreement with the respective school district to compensate for any additional impact a development may have on schools.”

2. Mitigation Agreement and Transfer Agreements

Consistent with these Framework Plan requirements, the School District worked with City Planning Staff and the Subarea Plan applicant to incorporate the necessary school sites into the Subarea Plan land use designations. In an effort to comply with the Framework Plan requirements and fully mitigate to a level of insignificance the anticipated impacts on the need for school facilities that will be caused by the development of the Torrey Highlands project, the School District met with the Subarea Plan applicant and other affected landowners in an effort to develop (i) a Subarea IV Torrey Highlands School Impact Mitigation Agreement (Mitigation Agreement) with all thirty-seven (37) landowners within Torrey Highlands and (ii) a School Site Transfer Agreement and Escrow Instructions (Transfer Agreement) with each owner of any portion of a designated school site.

Exhibit 1 to this Schools Financing Plan is a copy of the Mitigation Agreement which is incorporated into and forms an integral part of this Schools Financing Plan. The Mitigation Agreement is the agreement referred to in Framework Plan section 8.3f that is intended to provide the method by which any additional impact of the development on the need for school facilities will be mitigated. The Transfer Agreements were to have satisfied the requirements of Framework Plan section 8.2c regarding the transfer of school sites.

While less than thirty-seven (37) landowners have entered into the Mitigation Agreement and only one owner of designated school site land has entered into a Transfer Agreement, future compliance with a series of “School Facilities Provisions” included in the Subarea Plan text, the Resolution approving the Subarea Plan, the ordinance submitting the Phase Shift to the electorate and the mitigation measures in the Final Environmental Impact Report (EIR) will assure that development impacts on the need for school facilities will be fully mitigated.

3. Timing of School Facilities

The first step in constructing the School Financing Plan was to determine the timing for delivery of required facilities. As discussed in more detail below, the timing of the construction of the school buildings is determined by the School District Board Policy and by Framework Plan requirements, but in response to suggestions by owners of designated school sites, the Schools Financing Plan creates the opportunity to acquire school sites at an earlier date than otherwise required by the Framework Plan. This was done in an effort to create cost savings.

A. Construction of Buildings

School District Board Policy 6.33 requires that school facilities be provided when certain “enrollment thresholds” are reached. This policy for the timing of delivery of school facilities is incorporated in the Framework Plan at Section 8.3d and Table 8.3c, which requires, for example, that elementary school facilities must be available for occupancy when 360 elementary students have been generated. The enrollment thresholds are as follows.

School Type	Threshold	School Size
K-5	360	701
6-8	600	1,380
9-12	1,202	2,140

Because the Torrey Highlands project generates the need for more than one whole elementary school, construction of the elementary school will be timed based on student generations within the Subarea Plan. Because of their larger size, the middle school and the high school will serve students from a wider area than the Subarea Plan and therefore, the timing of their construction will be initiated by the School District based on the Districtwide Master Plan that looks at student generations within the larger projected attendance area boundaries of those schools. It is expected those schools will include students from elsewhere in the School District beyond Subarea IV.

In order to open a school at the threshold point, planning and construction of the elementary facility must commence approximately 48 months and 60 months, respectively, prior to meeting Districtwide thresholds for attendance at these schools.

B. Acquisition of Land

During the course of consultations with the Torrey Highlands landowners regarding formulation of this Schools Financing Plan, it was recognized that land acquisition cost is a very important variable that can have a dramatic effect on the total cost of school facilities per residential unit. It was recognized that land costs could be controlled by acquiring the school sites at a time relatively sooner than the enrollment thresholds would require. Accordingly, the School District engaged in negotiations with owners of school sites within the Subarea Plan seeking early acquisition at lower costs than could otherwise be expected if the sites were acquired later. The School District has not yet completed such an early-acquisition-lower-cost acquisition but the School District has entered into (but not yet closed) one Transfer Agreement on that basis and will continue to work on other such school site acquisitions. Until those acquisitions are completed, it has been necessary for the purposes of this Schools Financing Plan to assume that school sites will not be acquired until the “enrollment thresholds” requiring school construction are reached at a price not exceeding \$265,000 per acre (increased by an index to the date of acquisition). Any cost savings achieved by earlier acquisition allows the School District to reduce its facilities cost assumptions and make a corresponding reduction in the amounts paid by landowners under the Mitigation Agreement.

Since the drafting of the Framework Plan language, it has been necessary to address an additional concern—biological mitigation for school sites. The School District will work with City staff and the resource agencies to establish an appropriate and acceptable means of addressing mitigation costs, ideally through a development agreement with the City of San Diego.

4. Subarea Plan School Facilities Provisions

By the time the Subarea Plan text was ready for City Council review in July 1996, the School District had completed negotiations of the Mitigation Agreement in the form attached as Exhibit 1 of this Schools Financing Plan and had entered into the Mitigation Agreement with a number of landowners representing a substantial portion (but less than all) of the land area of Torrey Highlands. Also, the School District had not been successful in negotiating any Transfer Agreements. Thus, the Subarea Plan was in a condition that would not permit it to be submitted to the City Council pursuant to the above quoted Framework Plan requirements because it would not be possible to concurrently adopt purchase agreements for school sites and a Mitigation Agreement to provide for the full mitigation impacts on the schools.

In response to that circumstance, the School District, the City planning staff, the project applicant and other interested landowners attempted to develop some alternative to the Framework Plan requirements that would allow the Subarea Plan to move forward while still providing assurance that the impacts on school facilities would be fully mitigated. That effort resulted in the City Manager proposing language to be inserted in the Subarea Plan adoption resolution providing that the

“Subarea Plan will become effective after purchase agreements and mitigation agreements have been concluded.” (Manager’s Report No. P-96-166, July 24, 1996, p. 7). Subarea Plan Approval Resolution R-287749, Section 5(v) provides that the Subarea Plan shall not be effective until all listed events have occurred, including the requirement that “the owners of 80 percent of the acreage within the Torrey Highlands Subarea Plan have approved the School Financing Plan by executing a School Impact Mitigation Agreement with the Poway Unified School District.”

In addition, various other "School Facilities Provisions" were inserted into the Subarea Plan text, the Final Environmental Impact Report Mitigation Measures and the Phase Shift Ordinance to assure that Transfer Agreements and a Mitigation Agreement will be entered into with the School District by each owner of school site land and each owner of land within Subarea IV, respectively, before rezoning applications are made by such owners in order to develop their property at any zoning higher than A-1-10 and consistent with the higher density land use designations provided in the Subarea Plan.

The School Facilities Provisions were approved by the School Board on July 29, 1996, and on that basis the School District provided the certification required by Framework Plan Section 8.3f that the impacts of development on the need for school facilities will be fully mitigated if the School Facilities Provisions are carried out.

A. Subarea Plan Text

The following School Facilities Provisions were inserted in the Subarea Plan text to provide a means by which the various Framework Plan requirements with respect to schools quoted above, could be satisfied as of some date after City Council approval of the Subarea Plan and its submission to the electorate. The following items were inserted in the Subarea Plan text to achieve that purpose.

“6.1 IMPLEMENTING PRINCIPLES...

- *Provide for the adoption of the schools financing and phasing plan before accepting any application for the rezoning of property or approve any permit application to increase density entitlements within the Subarea.*
- *Provide for execution of mitigation agreements and purchase agreements for designated school and neighborhood park sites by individual applicants before accepting any application for the rezoning of property or approve any permit applications to increase density entitlement for such property.”*

“8.3.2 School Facilities

Development projects within Torrey Highlands will be required to comply with school financing and phasing as set forth in a School Facilities and Financing Plan (see Appendix A) prepared expressly for Subarea IV, and in concert with the Poway Unified School District (PUSD). No development within Subarea IV may occur prior to inclusion of the School Facilities and Financing Plan as Appendix A of this Subarea Plan. No owner of land in Subarea IV may apply for

the rezoning of property or any other permit to increase density entitlements for such property unless such owner has provided for the full mitigation of development impacts on the need for school facilities by (i) the execution of a school mitigation agreement between PUSD and the property owner seeking development approvals and (ii) if such owner has land designated as a school site, the execution of a school site purchase agreement consistent with Section 8.6.1 between PUSD and the property owner seeking development approvals. The Subarea Plan includes elementary school and high school sites within Torrey Highlands, which are in addition to the elementary school and middle school already located within the area. Provisions for the acquisition of property for the eventual construction of the schools shall be contained in the School Facilities and Financing Plan consistent with the provisions of the Framework Plan and shall be the subject of certain mitigation agreements for property containing designated school sites. Further discussions of school facilities are provided in Chapter 6, Community Facilities.”

“8.3.3 School Mitigation Condition

All impacts of development of the Torrey Highlands portion of Subarea IV on the facilities needs of the Poway Unified School District (the "District") shall be fully mitigated Prior to processing any application for rezoning or any permit to increase density entitlements within the Subarea, the City shall include as Appendix A of this Subarea Plan, a School Facility Plan which provides that each property owner within the Subarea shall enter into a mitigation agreement with the District (the “Mitigation Agreement”) setting forth the terms and methods of fully mitigating impacts of development on the District through participation in a community facility district (“CFD”) pursuant to the Mello-Roos Community Facilities Act of 1982. Any owner of property at a zoning greater than A-1-10 prior to the inclusion of their property in the CFD shall pay to the District the following amounts for each attached or detached residential unit:

\$18,391 per Detached Residential Unit

\$7,891 per Attached Residential Unit

The amounts shall be increased as of January 1 of each year commencing January 1, 1997 by the percentage change in the “index” and in the manner provided in the Mitigation Agreement. Such impacts will be fully mitigated only if the Mitigation Agreement is fully performed. Therefore, continued performance under the Mitigation Agreement shall be a “condition of approval by the City for any future zoning decision, tentative map, subdivision map, building permit or or other development entitlement approval or any portion thereof (collectively "entitlement"). Within ten (10) days following written request delivered to the District by the City or any applicant, subject to holidays and delays beyond reasonable control of the District, the District shall submit to the City, with a copy to any entitlement applicant requesting same, a certificate indicating the status of the continued performance of the Mitigation Agreement.”

“8.4.1 Zoning

At the time of the Subarea Plan preparation, the property within the subarea was zoned A-1-10, an agricultural zone permitting one dwelling unit per ten acres. Neither this Subarea Plan nor a successful phase shift shall constitute a rezoning. Users at densities higher than A-1-10 shall require a rezoning application. Property owners shall be required to make application for rezoning consistent with the Subarea Plan’s land use designations in order to develop at densities greater than allowed in the A-1-10 zone as contemplated by the Subarea Plan. Approval of rezoning applications may be granted only if such application is consistent with the policies and requirements of the Framework Plan, this Subarea Plan and applicable environmental documents.

In 1991, the City of San Diego began work on a comprehensive revision of its Municipal Code (Zoning Code Update) as it relates to permit processing, land uses and development regulations. The new code, upon adoption, will be known as the Land Development Code. The initial task of the Zoning Code Update, already approved by City Council, was to make changes to permit processing procedures. The remaining task, revisions to land uses (the renaming and reformatting of existing zones and the creation of new zones) and establishment of refined development regulations, are currently the subject of public review and hearings. Upon adoption of the Land Development Code, renamed and reformatted zones will replace the current zones. The new zones will be applied to property only upon an application by individual property owners to rezone from existing A-1-10 zoning.”

"8.6.1 School Sites

Prior to consideration of any application for rezoning or application for approval of any permit to increase density for property, any portion of which is designated as a school site, purchase agreements (each fully executed by the relevant owner and Poway Unified School District) shall be delivered to the City. These purchase agreements (described in Section 8.3.2 above) shall commit owners of designated school sites to sell those sites. The terms of the purchase agreements shall be negotiated between the relevant owner and School District, however, the purchase amount shall not exceed the amount set forth in the School Facilities Financing Plan and the acquisition dates shall be no sooner than when the acquisition funding is provided for in the School Facilities Financing Plan.”

B. Mitigation Measures

The Final Environmental Impact Report (EIR) for the Torrey Highlands Subarea Plan Project contains the following Mitigation Measure IV-L.1 with respect to school facilities.

"No approval of an application for rezoning or approval of any permit to increase density of entitlement shall be granted prior to (i) inclusion of a School Facilities Financing Master Plan as Appendix A of the Subarea Plan, which ensures full mitigation of impacts to Poway Unified School District (PUSD) through the provision of facilities concurrent with the need therefore, and (ii) execution of a school mitigation agreement between PUSD and the applicant seeking approvals, or written confirmation from PUSD that the applicant has satisfactorily provided for mitigation of school impacts with then applicable PUSD policies and (iii) for those applicants who own property any portion of which is designated as a school site, the execution of a school site purchase agreement consistent with Subarea Plan Section 8.6.1, between PUSD and the applicant, or written confirmation from PUSD that applicant has satisfactorily provided for the transfer of such school site property to PUSD."

C. Phase Shift Ordinance

Finally, the Phase Shift ordinance submitted to, and subsequently approved by the electorate on November 5, 1996 (Ordinance No. 0-18333), contains the following provisions with respect to schools.

"The People of The City of San Diego hereby further ordain that the City shall not approve any application for the rezoning of property or approve any permit applications to increase density entitlements for those properties within the area identified in Figure 1-2 in the Torrey Highlands Subarea IV Plan unless and until the Owner/Applicant of such land executes a School Facilities Funding and Mitigation Agreement, which is substantially similar in form and substance to the form of agreement set forth in Appendix A of the Torrey Highlands Subarea IV Plan.

The People of The City of San Diego further ordain that the City shall not approve any application for the rezoning of property or approve any permit applications to increase density entitlements for those properties designated as school sites in the Torrey Highlands Subarea IV Plan, unless the Poway Unified School District Board determines that such school site is no longer needed."

5. Summary of School Facilities Provisions

In summary, the School Facilities Provisions of the Subarea Plan Approval Resolution, Subarea Plan text, the EIR and Phase Shift Ordinance provide that all impacts of development of the Torrey Highlands portion of Subarea IV on the facilities needs of the Poway Unified School District shall be fully mitigated pursuant to this Schools Financing Plan and the Mitigation Agreement through the formation by the School District of a Community Facilities District (CFD) pursuant to the Mello-Roos Community Facilities Act of 1982 or compliance with the other provisions of the Mitigation Agreement. Any owner of property within the Subarea Plan who seeks a zone change must enter into the Mitigation Agreement and

participate in the CFD prior to City Council consideration of the zone change. Effectiveness of the Subarea Plan is deferred until the owners of 80 percent of the acreage within the Torrey Highlands Subarea Plan have approved the School Financing Plan by executing the Mitigation Agreement with the School District. In addition, any owner of any land designated in the Subarea Plan for school site purposes must enter into a school site transfer agreement with the School District (if they have not already done so) before the City Council will consider a zone change for any portion of that owner's property within the Subarea Plan. Any owner who seeks a building permit prior to the inclusion of their property in the CFD or entry into the Mitigation Agreement shall pay to the School District the amounts for each attached or detached residential units required by the School Mitigation Condition of Subarea Plan Section 8.3.3.

6. Estimated New School Facilities Dollar Impact

The projected cost of new school facilities is based on State School Building Standards and District Board of Education policies. These cost projections are developed in accordance with standard practices and procedures used by the School District and have been extensively reviewed by the Applicant and its consultants. See Exhibit B of the Mitigation Agreement for a summary of school facilities costs. Detailed construction cost estimates are maintained by the School District's planning staff as part of the Districtwide Master Plan.

Construction cost estimates will be adjusted annually to reflect increases in the State's school construction cost index. The School District also adjusts its estimates from time to time to reflect cost increases or decreases caused by changes in School District educational programs and state statutes. For example, recent state-mandated class size reductions have caused a slight increase in costs for additional classrooms in Grades 1-3. However, because this Schools Financing Plan will be implemented through the payment of fixed mitigation payments or special taxes that cannot practicably be increased, such cost increases will be funded, if at all, out of cost savings, if any, achieved in the actual cost versus estimated costs of school facilities. The School District will periodically review these factors and any net cost savings will be passed along to Schools Financing Plan participants in the form of reduced mitigation payments and special taxes.

The School District includes the cost of interim housing and administrative school facilities impacts for its Future Development Area students. Additional classrooms will be needed to temporarily house students until the enrollment thresholds are met and permanent facilities are constructed. Over the 12-15 year period in which Subarea IV is being developed, an estimated total of \$1,930,236 in 1996 dollars is projected to be needed to pay for temporary school facilities. As for administrative facilities, the School District is projecting an impact of \$997,360.

7. Land Acquisition Goals

Notwithstanding the stated goal of early school site acquisitions in order to generate cost savings, the School District was unable to complete any Transfer Agreements prior to consideration of the Subarea Plan by the City Council. Therefore, the Subarea Plan included text in Section 8.6.1 that required an owner of property that includes any portion of a designated school site to choose between (i) foregoing the benefits of Subarea Plan and Phase Shift approvals by developing his property at the existing A-1-10 zoning density, or (ii) accepting the benefits of the Subarea Plan and Phase Shift by entering into a Transfer Agreement for the sale of that site to the School District at a date not earlier than acquisition funding is provided for in the Schools Financing Plan and at a price not greater than the land cost assumption used in constructing the Schools Financing Plan. This does two things. First, it provides some assurance that the designated school sites will be available for that purpose at a time and price that is included in the sizing of the Schools Financing Plan. Second, this provision does not prevent earlier acquisition at a price that is less than the land cost assumption included in this Schools Financing Plan, thus leaving open the possibility of generating cost savings. Any such cost savings achieved, net of any cost increases, will be used to decrease the mitigation payments and special taxes charged to participants in the Schools Financing Plan.

Because the School District had no Transfer Agreements in hand at the time of Subarea Plan approval, it is necessary to make conservative land cost assumptions that would provide adequate funding for acquisition of all necessary interests in land at a much later date determined by enrollment thresholds. At the time of Subarea Plan approval, the School District assumed a school site land cost of \$265,000 per acre (as increased each year by an index until the year of acquisition) and a “one-for-one” mitigation land requirement (one acre of mitigation for one acre of disturbance) at an assumed cost of \$60,000 per mitigation acre increased each year by an index. These conservative land cost assumptions cause correspondingly high total “Mitigation Payments” required of each Detached Unit and Attached Unit and corresponding special taxes contemplated to be imposed by the CFD that are now shown in the Mitigation Agreement attached as Exhibit 1 to this Schools Financing Plan.

8. Land Cost Assumptions

Since approval of the Subarea Plan the School District has continued to refine the land cost assumptions by working with the City and resource agencies with respect to mitigation land costs and by gathering further information regarding the expected cost of school sites. Based on those efforts, the School District is hereby reducing the cost assumptions of this Schools Financing Plan to:

- (i) a school site land cost assumption of \$162,500 per acre; and
- (ii) environmental mitigation at one acre of mitigation for each acre of school site at a cost of \$30,000 per acre.

These above land cost assumptions are “the amount set forth in the School Facilities Financing Plan” for the purpose of Subarea Plan Section 8.6.1. These land cost assumptions of this Schools Financing Plan may be further reduced by the School District in response to actual cost savings that may be achieved.

9. Revised Mitigation Payment and Special Tax Amounts

Based on the above reduced land cost assumptions the School District is hereby reducing the mitigation payment and special tax amounts in the Mitigation Agreement and this Schools Financing Plan to the following amounts.

Detached Unit—Mitigation Amount	16,247
Attached Unit—Mitigation Amount	6,960
Annual Special Tax Per Detached Unit	1,565
Annual Special Tax Per Attached Unit	645
Maximum Annual Special Tax Per Undeveloped Acre	0

The above amounts are expressed in January 1, 1996 dollars and are subject to increase by an index as provided in the Mitigation Agreement.

10. Future Implementing Actions

The School District will commence formation of the Torrey Highlands community facilities district (CFD) in the near future. It is intended that the CFD formation will involve the entire land area of Torrey Highlands. In addition, the School District will continue efforts to complete, or enter into agreements to complete, land acquisitions to generate further cost savings.

EXHIBIT 1

MITIGATION AGREEMENT

RECORDING REQUESTED BY

WHEN RECORDED MAIL TO:

**Luce, Forward, Hamilton & Scripps LLP
600 West Broadway, Suite 2600
San Diego, California 92101
Attn: Thomas A. May, Esq.**

**SUBAREA IV
TORREY HIGHLANDS**

SCHOOL IMPACT MITIGATION AGREEMENT

Between

POWAY UNIFIED SCHOOL DISTRICT

and

TORREY HIGHLANDS LANDOWNERS

Table of Contents

RECITALS	1
AGREEMENT	1
ARTICLE I STATUTORY AUTHORITY AND DEFINITIONS	2
ARTICLE II MITIGATION MEASURES	6
Section 2.1 Mitigation	6
Section 2.2 District Confirmation of Framework Plan Compliance	7
Section 2.3 Development Conditions	7
Section 2.4 Mitigation Payments.	8
Section 2.5 Certificates of Compliance	8
Section 2.6 Conditions Subsequent.....	9
ARTICLE III COMMUNITY FACILITIES DISTRICT	9
Section 3.1 CFD Formation	9
Section 3.2 CFD Boundaries	9
Section 3.3 CFD Special Taxes	9
Section 3.4 Bonds.....	9
Section 3.5 Mitigation Credits	11
Section 3.6 Priority Attendance	11
ARTICLE IV GENERAL PROVISIONS	12
Section 4.1 Successors.....	12
Section 4.2 Assignment	12
Section 4.3 Amendment and Waiver.....	12
Section 4.4 Severability.....	12
Section 4.5 Integration.....	12
Section 4.6 Notices, Demands and Communication	12
Section 4.7 Attorneys’ Fees	13
Section 4.8 Interpretation	13
Section 4.9 Counterparts.....	13
Section 4.10 Recordation; Limited Termination	13
Section 4.11 Nature of Mitigation Payments.....	13
Section 4.12 Exhibits and Schedules	14
SCHEDULES AND EXHIBITS	
SCHEDULE “1” Signature Page of Owners	15
SCHEDULE “2” School Site Information.....	17
EXHIBIT “A” Map and Legal Description of Torrey Highlands Property	19
EXHIBIT “B” School Facilities Description and Cost Summary.....	21
EXHIBIT “C” Form Certificate of Compliance	29
EXHIBIT “D” Rate and Method of Apportionment of Special Tax	31
EXHIBIT “E” Form of Mitigation Credit	41
EXHIBIT “F” Form of Assignment and Assumption Agreement.....	43

**SUBAREA IV
TORREY HIGHLANDS
SCHOOL IMPACT MITIGATION AGREEMENT**

THIS SUBAREA IV TORREY HIGHLANDS SCHOOL IMPACT MITIGATION AGREEMENT (the "Agreement") is made and entered into as of July 1, 1996, by and between the POWAY UNIFIED SCHOOL DISTRICT ("District") and each owner of real property who enters into this Agreement by executing a Schedule "1" hereto (individually, an "Owner" and collectively, the "Torrey Highlands Landowners").

RECITALS

- A. Approximately 1,520 acres of real property commonly known as "Subarea IV" (the "Subarea IV Property") is identified in the Framework Plan for the North City Future Urbanizing Area, February 1995, as amended (the "Framework Plan") of the City of San Diego (the "City").
- B. The Subarea IV Property is composed of (1) the 386-acre Fairbanks Highlands property owned by Koll/Signal Landmark, which processed a map under (a) the A-1-10 Zone, Planned Residential Development (PRD) Ordinance of the City and (b) City Council Policy 600-29, which map was adopted by the City Council of the City in December 1995 and, (2) the approximately 1,134 acre remainder of Subarea IV known as "Torrey Highlands" that will be the subject of the "phase shift" vote in November 1996 (herein, the "Torrey Highlands Property") as depicted and more particularly described in Exhibit "A" hereto.
- C. The Torrey Highlands Property is proposed to be developed as described in the Torrey Highlands Subarea Plan, dated July 19, 1996 as approved by the City Council of the City (the "Subarea Plan"). The Subarea Plan provides for development of up to 2,600 dwelling units in Torrey Highlands, and related uses including development of elementary, middle and high schools on sites identified in the Subarea Plan together with park sites and land for open space and other uses (collectively, the "Project").
- D. The Framework Plan which comprises a portion of the Progress Guide and General Plan ("General Plan") of the City requires that no Subarea Plan will be adopted by the City in the absence of agreements with relevant school districts regarding the acquisition of designated school sites and the location, phasing and financing of school facilities necessary to mitigate impacts of development on the need for schools (see Framework Plan Sections 8.2c and 8.3f).
- E. Each Owner has entered into this Agreement by executing Schedule "1" hereto with respect to such Owner's undeveloped property described therein. Certain of the Owners have each entered into a School Site Transfer Agreement and Escrow Instructions ("Transfer Agreement") whereby such Owner will transfer to District all or a portion of the elementary school, middle school and high school sites identified in the Subarea Plan and as further identified in Schedule "2" hereto.

- F. This Agreement and the related Transfer Agreements, which have been executed prior to the date of Subarea Plan approval by the City as required by the Framework Plan, are intended to provide the funds necessary for the construction and acquisition of specified school facilities and acquisition of land therefor and appurtenances thereto necessary to mitigate the impacts on the need for school facilities that will be caused by the development of the Project.
- G. This Agreement and each of the Transfer Agreements are integral components of the School Facilities and Financing Plan set forth as Appendix “D” to the Subarea Plan.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION of the above recitals and the terms and conditions herein set forth, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, District and each Owner do hereby agree as follows:

ARTICLE I

STATUTORY AUTHORITY AND DEFINITIONS

Section 1.1 Authority for this Agreement. This Agreement is entered into consistent with and under the provisions of Section 53080 *et seq.*, Chapter 4.7 (commencing with Section 65970) and Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code and Part 23 (commencing with Section 39001) of the Education Code and other provisions of law.

Section 1.2 Incorporated Definitions. Capitalized terms not otherwise defined herein shall be defined as provided in the Rate & Method.

Section 1.3 Definitions. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this agreement, or for any supplemental agreement, and for any certificate, opinion or other document herein mentioned, have the meanings herein specified. All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement, and the word “herein,” “hereof,” “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof.

“**Act**” means the Mello-Roos Community Facilities Act of 1982, as amended, located at Section 53311 *et seq.* of the California Government Code.

“**Agreement**” means this Subarea IV Torrey Highlands School Impact Mitigation Agreement and all exhibits and schedules incorporated herein, as the same may be amended or supplemented from time to time.

“Attached Unit” means a building or buildings in which all of the individual Units have at least one common wall.

“Bonds” means any obligation to repay a sum of money, including obligations in the form of bonds, notes, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals, or long-term contracts, or any refunding thereof, which obligation may be incurred by the CFD or the District.

“Certificate of Compliance” means a certificate issued by District pursuant to Government Code Section 53080(b) or other applicable law substantially in the form of Exhibit “C” attached hereto and incorporated herein.

“CFD” means Community Facilities District No. 2 or other special tax district to be formed by the District pursuant to this Agreement.

“City” means the City of San Diego.

“City Council” means the City Council of the City.

“Detached Unit” means any residential dwelling Unit within the Project which contains a single-family structure with no common walls.

“District” means the Poway Unified School District and any successor or assignee involved in the delivery, funding or construction of school facilities or services in or to the District or to its students or to its employees, including any joint powers authority, public benefit corporation or other public entity engaged in such activities.

“Elementary School” means the elementary school facilities to be located on School Site No. 1.

“Final Map” means a final subdivision map creating individual lots on which dwelling Units may be constructed in accordance with the California Subdivision Map Act.

“High School” means the high school facilities to be located on School Site No. 6.

“Index” means the Lee Saylor Construction Cost Index for Class D Construction published by the State Allocation Board (the “Lee Saylor Index”), or in the absence of the Lee Saylor Index, the Engineering News Record, Construction Cost Index (Los Angeles Area) published by McGraw-Hill, Inc. (“ENR Index”), or in the absence of such ENR Index, an index which reasonably approximates increases in costs of school construction.

“Middle School” means the middle school facilities to be located on School Site No. 2.

“Mitigation Credit” means credits to be issued by District pursuant to a Transfer Agreement, substantially in the form attached as Exhibit “E” hereto.

“Mitigation Payment” means payment to or for the account of District in an amount equal to: (i) \$18,391 for each Detached Unit, or (ii) \$7,891 for each Attached Unit, subject in each case to the following adjustments. The Mitigation Payment amount shown above shall be increased, as of January 1 of each year commencing January 1, 1997 (each an “Adjustment Date”), by multiplying the applicable dollar amount in effect on such Adjustment Date by the percentage increase in the Index from the later of January 1, 1996, or the date of Index data used in the last adjustment, to date of the Index data most recently available prior to the Adjustment Date. Regardless of any change in the Index, in no event shall such applicable dollar amounts decrease.

“Owner” means any owner of land within the Torrey Highlands Property who has entered into this agreement by executing Schedule “1” hereto.

“Payor” is defined as provided in Section 2.4(b).

“Phase Shift” means approval by the electorate of the redesignation of Subarea IV from “Future Urbanizing” to “Planned Urbanizing” as contemplated by the Framework Plan and the Subarea Plan.

“Project” means the development on the Torrey Highlands Property in accordance with the Subarea Plan.

“Property” means the Torrey Highlands Property.

“Rate & Method” means the Rate & Method of Apportionment of Special Taxes attached as Exhibit “D” hereto.

“School Facilities” means the acquisition, construction and/or financing of those school facilities including classrooms, on-site office space at a school, central support and administrative facilities, interim housing, transportation and special education facilities, together with furniture, equipment and technology, needed by District in order to serve the student population to be generated as a result of the development of the Property, together with all land or interests in land required for the construction of such facilities and all land or interests in land required to be provided by the District as mitigation of environmental impacts associated with the development of such school facilities as well as costs to the District related to negotiation and execution of this Agreement and the Transfer Agreements.

“School Facilities Financing Plan” means the School Facilities Master Plan and Financing Plan of the North City Future Urbanizing Area, Subarea IV-Torrey Highlands, which is incorporated in the the Subarea Plan at Appendix A thereto. The form of this Agreement is attached to and is incorporated in the School Facilities Financing Plan.

“School Fees” means, other than the payments, special taxes and provisions required under this Agreement, any and all fees, interim fees, charges, taxes, special taxes, dedications or other forms of exactions or requirements which are imposed, as a condition of development of a project or by other means, for facilities or services of District and without limiting the

generality of the foregoing, including those school fees as authorized by Section 53080, Chapter 4.7 (commencing with Section 65970) and Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code, or as may be authorized by any other existing or future legislation, ordinance, resolution or court decision.

“School Sites” means School Site No. 1, School Site No. 2 and School Site No. 6.

“School Site No. 1” means the site for the Elementary School located in the central portion of Subarea IV as identified in the Subarea Plan and further described in Schedule “2” hereto.

“School Site No. 2” means the site for the Middle School located at the northern edge of Subarea IV as identified in the Subarea Plan and further described in Schedule “2” hereto.

“School Site No. 6” means the site for the High School as identified in the Subarea Plan and further description in Schedule “2” hereto.

“Senior Citizen Housing” or **“Senior Unit”** means any residential dwelling unit within the Project designated as senior citizen housing, residential care facilities for the elderly or multi-level facilities for the elderly as described in California Government Code Section 65995.1 regardless of whether such residential dwelling unit is attached to or detached from other residential dwelling units.

“Subarea Plan” means the Torrey Highlands Subarea Plan, proposed to be approved by the City and the Draft Environmental Impact Report (SCH 93071041) and any amendments or implementing resolutions with respect thereto that do not increase the number of dwelling units or other development affecting the need for School Facilities planned for the Project.

“Tax Lien Date” means the date on which a Notice of Special Tax Lien (as defined in the Act) with respect to the Rate & Method is recorded pursuant to the Act.

“Torrey Highlands Property” or **“Property”** means the real property depicted and described on Exhibit “A” hereto.

“Transfer Agreement” means each of the School Site Transfer Agreement and Escrow Instructions being executed concurrently herewith by and between District the Owner designated therein (as shown in Schedule “2”), whereby such Owner will transfer all or a portion of the School Sites to District.

“Unit” means each separate residential dwelling unit which comprises an independent facility capable of conveyance separate from adjacent residential dwelling units. Each Unit shall be classified as either Detached Unit or Attached Unit.

ARTICLE II

MITIGATION MEASURES

Section 2.1 Mitigation. The purpose of this Agreement is to establish a method of providing School Facilities necessary to mitigate the impact of development of the Project on the District. Execution of this Agreement alone shall not be deemed mitigation of the impacts on District of development of the Project. Mitigation of school impacts shall be deemed to occur only upon satisfaction of the terms and conditions provided herein. The parties intend this Agreement to be binding upon each party and its successors, notwithstanding the provisions of any existing or future legislation, ordinance, resolution, regulation, policy or court decision (collectively and individually, any “law”) issued or adopted by any court, the State of California, any city, the County of San Diego or Local Agency Formation Commission, or subdivision thereof (collectively and individually, a “Governmental Unit”), which would require or authorize the payment of a School Fee or other school mitigation requirement contrary to those contemplated under this Agreement. In consideration of the covenants contained in this Agreement, both Owner and District expressly waive the benefit arising from any existing or future law issued or adopted by any Governmental Unit affecting the rights or obligation(s) of an owner, developer or user of real property, to mitigate the impact of development or use of real property upon the availability of School Facilities, or the rights or obligations of the District to impose School Fees.

After approval of the Phase Shift and provided that the CFD is formed and Owner is not in default under this agreement or a Transfer Agreement to which it is a party, then District shall not (i) oppose development of Owner’s portion of the Project or (ii) seek to impose any other forms of mitigation including, but not limited to, the imposition or collection of fees, dedication of land, the payment of money or other additional consideration from Owner or Owner’s successors who expressly assume Owner’s obligations under this Agreement, including, but not limited to, the imposition of any School Fees. The District reserves the right to oppose continued development of the Project during any period in which the school impact mitigation provisions of this Agreement are not being performed as required by this Agreement or any Transfer Agreement is not being performed as required therein. Upon request of any Owner, provided that such Owner is not then in default hereunder or under a Transfer Agreement to which it is a party, District shall submit to the City written confirmation that Owner has provided for mitigation of school impacts through entry into, and continued performance under, this Agreement and any Transfer Agreement to which such Owner is a party.

Section 2.2 District Confirmation of Framework Plan Compliance. The District has entered into this Agreement and the Transfer Agreements in an effort to (i) fully mitigate to a level of insignificance the anticipated impacts on the need for School Facilities that will be caused by the development of the Project, (ii) to assure the availability of the School Facilities for the student population generated by development of the Project as required by the General Plan and Framework Plan and requirements of the EIR, and (iii) to establish the basis for providing a letter to the City as required by Section 8.3f of the Framework Plan.

Subject to the provisions of Section 2.6(a) below, the District shall provide such confirmation to the City upon completion of each of the following requirements of Section 2.2(a) and (b), which shall be established to the satisfaction of the District at least twenty-four (24) hours prior to the date and time scheduled by the City Council of the City to act upon the Subarea Plan.

(a) *Mitigation Agreement.* Each owner of real property within the Torrey Highlands Property shall have entered into this Agreement by executing, acknowledging and delivering to the District an “Owner Signature Page” substantially in the form of Schedule “1” hereto.

This level of compliance with the Framework Plan (see Section 8.3f thereof) is necessary in order to assure a coherent financing plan for all School Facilities required by the development of the Project and to establish an equitable sharing among all Owners of the costs of School Facilities.

(b) *Transfer Agreements.* Framework Plan Section 8.2c requires that, prior to Subarea Plan approval by the City, each owner of real property that is designated by the Subarea Plan (see Figure 4-2 thereof) as containing any portion of a school site, shall have entered into a Transfer Agreement providing for the sale of such school site property to the District. It is expected that certain Owners will not have entered into a Transfer Agreement with respect to their portions of the designated School Sites by the time that the City Council considers the Subarea Plan.

Provided that the Subarea Plan is amended by the City Council to contain language that prohibits approval of future zoning applications for density higher than the current A-1-10 zoning until such time as the owner of land designated for school site purposes enters into a Transfer Agreement with the District in conformance with Framework Plan Section 8.2c., then the absence of Transfer Agreements with respect to school sites designated in the Subarea Plan will have an insignificant effect on the mitigation of impacts on schools, and the District shall so confirm to the City.

Section 2.3 Development Conditions. The existence of this Agreement and the continuing obligation of each Owner to comply with the provisions of this Agreement shall be inserted as a condition to approval of the Subarea Plan and any subsequent zoning decision, tentative map, final map or other entitlement approval for the Project or any portion thereof and in any development agreement between an Owner and the City. District and Owner agree that the following condition shall be used:

“All impacts of development of the Torrey Highlands portion of Subarea IV (the “Project”) on the facilities needs of the Poway Unified School District (the “District”) shall be fully mitigated. Prior to or concurrent with approval of the Torrey Highlands Subarea Plan (the “Subarea Plan”), the District has entered into a School Impact Mitigation Agreement dated as of July 1, 1996 (the “Mitigation Agreement”) with each of the Owners identified therein setting forth the terms and methods of fully mitigating impacts of development of the Project on the District through the formation by the District of a community facilities district (“CFD”) pursuant to the Mello-Roos Community Facilities Act of 1982. Any owner of

property within the Subarea Plan who seeks a building permit prior to the inclusion of their property in the CFD shall pay to the District the following amounts for each attached or detached residential unit.

\$18,391 Detached Residential Unit

\$7,891 Attached Residential Unit

The amounts shall be increased, as of January 1 of each year, commencing January 1, 1997 by the percentage change in the “Index,” and in the manner provided in the Mitigation Agreement. Such impacts will be fully mitigated only if the Mitigation Agreement is fully performed. Therefore, continued performance under the Mitigation Agreement shall be a condition to the approval by the City of San Diego (“City”) of any future zoning decision, tentative map, subdivision map, building permit, or other entitlement approval for the Project or any portion thereof (collectively, “Development Permit”). Within ten (10) days following written request delivered to District by the City or any applicant, subject to holidays and delays beyond the reasonable control of the District, the District shall submit to the City, with a copy to any Development Permit applicant requesting same, a certificate indicating the status of the continued performance of the Mitigation Agreement.”

Section 2.4 Mitigation Payments.

(a) *Payments. (i) Prior to Tax Lien Date.* On or prior to the issuance of each building permit for construction of a Unit within the Project, Payor shall pay to District the Mitigation Payment in the then applicable amount with respect to each type of dwelling Unit.

(ii) *After Tax Lien Date.* From and after the Tax Lien Date, the Special Taxes provided by the Rate & Method shall be collected in lieu of the Mitigation Payment otherwise required under this Section 2.4.

(b) *Payment Responsibility.* The Owner, person or entity owning a parcel for which a building permit is sought (the “Payor”) shall pay the Mitigation Payment in the then applicable amount to the District prior to issuance of each building permit for each Detached Unit and for each Attached Unit. Payor shall promptly deliver to District a copy of each building permit for each residential structure with respect to which a Mitigation Payment has been paid to the District. Upon receipt of a Mitigation Payment, District shall provide a Certificate of Compliance (substantially in the form of Exhibit “C” hereto) with respect to such Unit as provided in Section 2.5 below.

Section 2.5 Certificates of Compliance. No building permit for the Project shall be issued without first obtaining a Certificate of Compliance. For any property subject to this Agreement or the Rate & Method, the District shall issue, upon request, a Certificate of Compliance for any Detached Unit or Attached Unit within the Property, subject to the express condition precedent that Payor has paid either (i) all Mitigation Payments then due hereunder or, (ii) alternatively, the One-Time Special Tax provided by the Rate & Method, with respect to such Unit.

Section 2.6 Conditions Subsequent.

(a) *Termination By Owner.* This Agreement shall terminate and be of no further force or effect by delivering written notice of termination to District if (i) the Subarea Plan is not approved by the City on or before December 31, 1996, or (ii) the “Phase Shift” is not approved by the electorate at the election designated for that purpose by the City.

(b) *Termination By District.* If the provisions of Section 2.2(a) and (b) above are not complied with at least twenty-four (24) hours prior to the date and time scheduled for City Council consideration of the Subarea Plan may terminate this Agreement by written notice to the Owners if the Subarea Plan is not approved, the District or language acceptable to the District is not included in the Subarea Plan to require compliance at some later date with the provisions of Framework Plan Sections 8.2c and 8.3f and Subarea Plan Section 8.6.1.

ARTICLE III

COMMUNITY FACILITIES DISTRICT

Section 3.1 CFD Formation. Each Owner shall cooperate with District in forming the CFD pursuant to the Act as soon as practicable after voter approval of the Phase Shift but in no event later than the approval of any tentative map, parcel map or similar proceedings, and each Owner agrees to vote in favor of a special tax in the form of the Rate & Method as set forth in Exhibit “D” hereto and further agrees to execute all documents reasonably requested by the District and required for the formation of the CFD.

From and after the Tax Lien Date, the Special Taxes provided by the Rate & Method shall be collected in lieu of the Mitigation Payments otherwise required under Section 2.4 hereof.

Notwithstanding anything to the contrary contained herein or in the Rate & Method, prior to the Tax Lien Date, in the event of disagreement between this Agreement and the Rate & Method, the terms of this Agreement shall control. After the Tax Lien Date, the Rate & Method as recorded shall control.

Section 3.2 CFD Boundaries. The boundaries of the CFD shall include the properties of each Owner and such other portions of the Torrey Highlands Property as the District may reasonably determine to include and provided further that the CFD may include or annex additional land (either within or without Subarea IV) in accordance with the provisions of the Act.

Section 3.3 CFD Special Taxes. The CFD shall not levy or collect any special taxes except those set forth in the Rate & Method. All funds generated from the levy of special taxes pursuant to the Rate & Method shall be expended as reasonably determined by the District for School Facilities.

Section 3.4 Bonds.

(a) *Construction of Facilities.* The CFD shall issue Bonds to provide funds to construct the School Facilities. Bonds may be incrementally sold from time to time, in a manner consistent with sound public financing practices, when needed to provide funding for School Facilities at the phasing thresholds provided in the Framework Plan (Table 8.3C) with respect

to the construction of School Facilities and provided that the District may cause the CFD to issue Bonds for the acquisition of land without respect to such phasing thresholds.

(b) *Acquisition of Land.* The CFD shall issue Bonds and Mitigation Credits to acquire land (including school site and environmental mitigation land) pursuant to the Transfer Agreements. The District and Owners acknowledge that Framework Plan Section 8.2c provides that:

“No subarea plan will be approved without concurrent entry into school site purchase agreements at a price (that is equal to the market value of the site(s) based on uses allowed by zoning regulations in place prior to the time the subarea plan is adopted, plus interest paid at an agreed-upon rate from the date of the Agreement to the date of actual purchase,”

and further that Subarea Plan Section 8.6.1 provides that:

“Prior to or concurrent with the adoption of the Subarea Plan, purchase agreements (each fully executed by the relevant owner and Poway Unified School District) shall be delivered to the City. These purchase agreements shall commit owners of designated school sites to sell those sites to School District and commit the School District to buy those sites. The terms of the purchase agreement shall be negotiated between the relevant owner and School District, however, the purchase amount shall not exceed the amount set forth in the School Facilities Financing Plan and the acquisition date shall be no sooner than when the acquisition funding is provided for in the School Facilities Financing Plan.”

Notwithstanding the above Framework Plan and Subarea Plan requirements, in the course of discussions among the District and the various Owners it was recognized that the owners of designated school sites (i) wished to sell their land at earlier dates, (ii) wish to sell their land at prices unrelated to the existing A-1-10 zoning, and (iii) that the reduced land cost attributable to such early acquisitions would benefit other Owners and participants in the CFD by reducing the total cost of School Facilities. The District has been willing to consider deviating from the above requirements of the Framework Plan and Subarea Plan in order to accommodate these apparently mutual interests of school site owners and all participants in the CFD who must contribute their allocable share to land acquisition costs for School Facilities, provided that such accommodation results in a School Facilities Financing Plan (including execution and delivery of necessary Transfer Agreements and this Agreement) that provides reasonable certainty that the necessary land can be acquired at a cost not exceeding the land cost assumptions used in the School Facilities Financing Plan for the purpose of formulating the Mitigation Payment amounts and related Special Tax amounts required by this Agreement. Unfortunately, as of the date this Agreement was circulated for signature by Owners, all necessary Transfer Agreements had not been executed and it is not expected that such Transfer Agreements will be delivered to the District before the City Council is scheduled to consider the Subarea Plan on July 30, 1996. Therefore, it has been necessary for the District (i) to consider opposing City Council approval of the Subarea Plan and opposing the subsequent voter approval of the proposed “phase shift,” or (ii) to assume

that the City Council will amend the Subarea Plan text in a manner so as to require that (a) any owner of land designated as a school site who has not previously entered into a Transfer Agreement with the District shall be required to comply with Subarea Plan Section 8.6.1 before any application for a change in zoning from the current A-1-10 zoning shall be considered by the City Council, and (b) any owner of land who has not previously entered into this Agreement with the District shall be required to provide for a full mitigation of impacts on the need for school facilities by entering into this Agreement or agreeing to the condition provided in Section 2.3 of this Agreement before any application for a change in zoning from the current A-1-10 zoning shall be considered by the City Council, or (c) otherwise provide that the requirements of Framework Plan Sections 8.2c and 8.3f and Subarea Plan Section 8.6.1 will be complied with at some point after City Council approval of the Subarea Plan in a manner so as to assure full mitigation of impacts of development pursuant to the Subarea Plan on the need for School Facilities to accommodate students expected to be generated by such development.

In the absence of compliance with the above Framework Plan and Subarea Plan requirements, in formulating a School Facilities Financing Plan it has been necessary for the District to assume that school sites will not be acquired earlier than necessary to allow construction of required school facilities to occur at the enrollment thresholds specified in the Framework Plan and that the school sites will be acquired at then current fair market value. For that purpose, in formulating the School Facilities Financing Plan, the District has relied on a recent appraisal for school site acquisition at \$265,000 per acre. This set of necessary assumptions has produced the following Mitigation Payment and Special Tax Amounts that, in the absence of changed circumstances, will be implemented pursuant to this Agreement.

\$18,391	Mitigation Payment—Detached Unit
\$7,891	Mitigation Payment—Attached Unit
\$1,875	Annual Special Tax Per Detached Unit
\$772	Annual Special Tax Per Attached Unit
\$0.00	Expected Special Tax Per Undeveloped Acre
\$100	Maximum Annual Special Tax Per Undeveloped Acre
\$7,891	Gross pre-payment Amount Per Attached Unit
\$18,391	Gross pre-payment Amount Per Detached Unit

The District believes these costs could be significantly reduced if the cooperative school facilities planning effort contemplated by the Framework Plan were fully implemented. However, until land acquisition costs necessary for the required School Facilities can be fixed at reduced levels, it will be necessary to implement the School Facilities Financing Plan as provided in this Agreement.

Section 3.5 Mitigation Credits. Owner acknowledges and agrees that pursuant to the Transfer Agreements the District may issue Mitigation Credits to the sellers of any portion of the School Sites in an amount equal to the amount by which the total consideration to be paid for such School Site exceeds the subsequently determined appraised value of such School Site.

Section 3.6 Priority Attendance. Subject to District policy and applicable law (including, without limitation, Government Code §53312.7(b)), and other limitations imposed by law, as such law may be amended from time to time, students residing in the Project shall enjoy priority attendance access at the Elementary School, the Middle School and the High School.

ARTICLE IV

GENERAL PROVISIONS

Section 4.1 Successors. Subject to the restrictions of Section 4.2 below, all of the covenants, stipulations, promises, and agreements contained in this Agreement by or on behalf of, or for the benefit of, any of the parties hereto, shall bind and inure to the benefit of the successors of the respective parties.

Section 4.2 Assignment. No sale, transfer or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer or assignment of all or part of the Property. Any Owner may assign to any person or entity all or a portion of such Owner's rights and obligations under this Agreement with respect to the portion of the Property transferred or assigned, provided that the proposed assignee assumes in writing all executory obligations of Owner with respect to the rights assigned and a copy of such fully executed assumption is delivered to the District (a "Permitted Assignment"). The assignee of a Permitted Assignment shall not require the prior written consent of District provided that the form of the assignee's assumption of obligations under this Agreement is substantially in the form of the Assignment and Assumption Agreement attached as Exhibit "F" hereto. No assignment by Owner, shall release Owner from its obligations under this Agreement or change Owners primary liability to make payments to District and to perform all other obligations of Owner under this Agreement unless and until such Assignment and Assumption is delivered to District and District executes the consent and release provided that Owner is not in breach of any of its obligations under this Agreement and that the Assignment and Assumption is fully executed and acknowledged by both the "Assignor" and the "Assignee" designated therein. District's acceptance of any payments or performance by any other person shall not constitute a waiver of any provision of this Agreement. In the absence of a release executed by District, if any assignee of Owner defaults under this Agreement, District may proceed directly against Owner without pursuing remedies against the assignee.

Section 4.3 Amendment and Waiver. This Agreement shall be amended only by a written instrument executed by the parties hereto or their successors. All waivers of this Agreement must be in writing and signed by the appropriate authorities of the parties hereto.

Section 4.4 Severability. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining portions hereof shall not, in any way, be affected or impaired thereby.

Section 4.5 Integration. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and all prior and contemporaneous agreements, representations, negotiations and understandings of the parties hereto, oral or written, are hereby superseded and merged herein. The foregoing sentence shall in no way affect the validity of the Transfer Agreement or any instruments executed by the parties in the form of the exhibits attached to this Agreement.

Section 4.6 Notices, Demands and Communication. Formal notices, demands and communications between District and Owner hereunder shall be sufficiently given if mailed by registered or certified mail, postage prepaid, return receipt requested, to the principal

offices of District or Owner, as set forth below. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail, as provided in this Section. Such notices, etc., shall be deemed received upon delivery if personally served, three (3) business days after sending by registered or certified mail, return receipt requested or one (1) business day after sending by Federal Express or other nationally recognized overnight delivery service.

If to Owner: At the addresses set forth in each Schedule "1" hereto

If to District: Poway Unified School District
13626 Twin Peaks Road Poway, CA 92064
Attn: Albert J. Abbott, Assistant Superintendent,
Business Support Services

With a copy to: Thomas A May, Esq.
Luce, Forward, Hamilton & Scripps LLP
600 West Broadway, Suite 2600
San Diego, CA 92101

Section 4.7 Attorneys' Fees. In any action between Owner and District arising out of or relating to the breach, enforcement or interpretation of this Agreement, the prevailing party in such litigation, in addition to any other relief which may be granted whether legal or equitable, shall be entitled to recover reasonable attorneys' fees and all other reasonable costs incurred in such litigation and allowed by the court.

Section 4.8 Interpretation. The rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto. The Section headings are for purposes of convenience only, and shall not be construed to limit or extend the meaning of this Agreement.

Section 4.9 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 4.10 Recordation; Limited Termination. The parties shall execute, acknowledge and cause this Agreement to be recorded against the Property in the Official Records of San Diego County. Following the Tax Lien Date, District shall execute and acknowledge a quit claim instrument or such other instrument reasonably requested by any Owner in recordable form terminating the encumbrance of this Agreement recorded in the Official Records of San Diego County, California ("Official Records").

Section 4.11 Nature of Mitigation Payments. The parties acknowledge and agree that the amounts payable by Owner to District hereunder do not constitute a "fee" for purposes of California Government Code Section 66000 *et seq.* and none of those provisions shall be applicable to this Agreement. Rather, this Agreement has been entered into as mutually satisfactory settlement of disputes between the parties and potential litigation arising therefrom.

Section 4.12 Exhibits and Schedules. The following Exhibits and Schedules attached to this Agreement are incorporated herein as though fully set forth:

Schedule	“1”	Signature Pages of Owners
Schedule	“2”	School Site Information
Exhibit	“A”	Map and Legal Description of Torrey Highlands Property
Exhibit	“B”	Facilities Description and Cost Summary
Exhibit	“C”	Form of Certificate of Compliance
Exhibit	“D”	Rate & Method of Apportionment of Special Tax
Exhibit	“E”	Form of Mitigation Credit
Exhibit	“F”	Form of Assignment and Assumption Agreement

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

POWAY UNIFIED SCHOOL DISTRICT

By: _____
Albert J. Abbott, Assistant Superintendent,
Business Support Services

APPROVED AS TO FORM:

LUCE, FORWARD, HAMILTON & SCRIPPS LLP
Legal Counsel
Poway Unified School District

By: _____
Thomas A. May,
Partner

“OWNER”

By: _____
See Schedule 1 for the execution by
each Owner of this Agreement

SCHEDULE "1"

OWNER SIGNATURE PAGE

By execution of this Schedule "1" the undersigned ("Owner") enters into that certain Subarea IV Torrey Highlands School Impact Mitigation Agreement, dated as of July 1, 1996 (the "Mitigation Agreement") and represents and warrants that the following information regarding Owner and its real property is true and correct to the best of our knowledge.

1. Owner's Name & Address: _____

Phone: _____
Fax: _____

2. Owner's Property Within Torrey Highlands Subarea Plan

A. Legal Description: See attached exhibit

B.	<u>APN</u>	<u>Acres</u>
	_____	_____
	_____	_____
	_____	_____
	_____	_____
		_____ Total Acres

"OWNER"

By: _____

Its: _____

SCHEDULE "2"

PROPERTY OWNER INFORMATION

School Site No. 1: Subarea IV Elementary School

Property Owner	APN	Address/Phone	PUSD No. & Legal Description	Acreage Parcel Total
Kirwin/Mundy/ KMC-11	306-011-09	Contact: Pete Mundy and Bill Kirwin P.O. Box 334 Three Forks, MT 59752 (406) 285-3947 (FAX)	ES 1	11/(Total Parcel)
	306-051-06		ES 2	
	306-051-09			

School Site No. 2: Subarea IV Middle School

Property Owner	APN	Address/Phone	PUSD No. & Legal Description	Acreage Parcel Total
Ta C.H. Li	306-030-05	4040 Moraga Avenue San Diego, CA 92117 (619) 273-3339	MS 1	0.51?
Koll/Signal Landmark	306-011-11, 12 306-020-11, 12	Holly Cloud 1656 Cloverdale Road Escondido, CA 92027 (619) 740-9537	MS 2	101?

School Site No. 6: Subarea IV High School

Property Owner	APN	Address/Phone	PUSD No. & Legal Description	Acreage Parcel Total
Pardee Construction Co.	306-021-05	Contact: David Poole 101 West C Street Suite 2200 San Diego, CA 92101 (619) 525-7240	HS 1	43.6/80
Black Mountain Road Partnership	306-021-07	Contact: Janet Raschke 4950 Ladera Sarina Del Mar, CA 92014 (619) 481-0455	HS 2	10.6/29
Black Mountain Road Partnership II	306-021-06	Contact: Janet Raschke 4950 Ladera Sarina Del Mar, CA 92014 (619) 481-0455	HS 3	10.7/29
Chow/Wonder Properties	306-041-06 306-041-19 306-041-20 306-041-21	Contact: Cindy Kasai 8333 Clairmont Mesa Boulevard #210 San Diego, CA 92111 (619) 457-2494	HS 4	1.1/109.1

EXHIBIT "A"

Map and Legal Description of Torrey Highlands Property

(To be provided by David Goodell)

EXHIBIT "B"

School Facilities Description and Cost Summary

**POWAY UNIFIED SCHOOL DISTRICT
SCHOOL FACILITIES IMPACT CALCULATION
FOR SUBAREA IV OF THE NCFUA LAND COSTS
AT \$265,000 PER ACRE**

I. SCHOOL FACILITIES COSTS

School Level	Site Acquisition	Environmental Mitigation	Facility Construction	Total Cost
Elementary (701)	\$2,915,000	\$720,000	\$7,841,210	\$11,476,210
Middle (1,380)	\$7,950,000	\$1,200,000	\$19,236,442	\$28,386,442
High (2,140)	\$17,304,500	\$4,320,000	\$43,123,847	\$64,748,347

II. STUDENT GENERATION FACTORS

Land Use	Elementary School	Middle School	High School	Total SCF
Detached	0.340	0.180	0.260	0.780
Attached	0.175	0.070	0.100	0.345

III. NUMBER OF PROPOSED RESIDENTIAL UNITS

Land Use	Units
Detached	2,122
Attached	478
Total Units	2,600

IV. PROJECTED STUDENT ENROLLMENT

Land Use	Elementary School	Middle School	High School	Total Enrollment
Detached	721	382	552	1,655
Attached	84	33	48	165
Total Enrollment	805	415	600	1,820

V. ESTIMATED SCHOOL FACILITIES IMPACT

Land Use	Elementary School	Middle School	High School	Total Impact
Detached	\$11,803,634	\$7,857,696	\$16,701,443	\$36,362,733
Attached	\$1,375,181	\$678,806	\$1,452,299	\$3,506,286
Total Enrollment	\$13,178,815	\$8,536,502	\$18,153,742	\$39,869,059

VI. ESTIMATED SCHOOL FACILITIES IMPACT PER UNIT

Land Use	Elementary School	Middle School	High School Per Unit
Detached	\$5,563	\$3,703	\$7,871
Attached	\$2,877	\$1,420	\$3,038

VII. ESTIMATED INTERIM AND ADMINISTRATIVE SCHOOL FACILITIES IMPACT

Item	Relocatables/ Students	Item Cost	Total Impact
Interim	308	\$6,267	\$1,930,236
Administrative	1,820	\$548	\$997,360

VIII. ESTIMATED INTERIM AND ADMINISTRATIVE SCHOOL FACILITIES IMPACT PER UNIT

Land Use	Students	Interim Impact	Administrative Impact	Interim Per Unit	Administrative Per Unit
Detached	1,655	\$1,755,242	\$906,940	\$827	\$427
Attached	165	\$174,994	\$90,420	\$366	\$189
Total	1,820	\$1,930,236	\$997,360	NA	NA

IX. TOTAL ESTIMATED IMPACT PER UNIT

Item	Detached	Attached
Elementary	\$5,563	\$2,877
Middle	\$3,703	\$1,420
High	\$7,871	\$3,038
Interim	\$827	\$366
Administrative	\$427	\$189
Total	\$18,391	\$7,891

**POWAY UNIFIED SCHOOL DISTRICT
SUMMARY OF ESTIMATED COSTS - ELEMENTARY SCHOOL
CITY FUTURE URBANIZING AREA - SUBAREA IV
LAND COST AT \$265,000 PER ACRE**

A. SITE		
1. Purchase Price of Property (11 acres [10 net usable] @ \$265,000 per acre)	\$2,915,000	
2. Environmental Mitigation Contingency Fund (12 acres @ \$60,000 per acre)	\$720,000	
3. Appraisals	\$7,000	
4. Escrow/Title	\$3,000	
5. Surveys	\$4,000	
6. EIR	\$10,000	
7. Other (Legal)	\$4,000	
Site Subtotal		\$3,663,000
B. PLANS		
1. Architect's Fee	\$473,774	
2. Preliminary Tests	\$20,000	
3. DSA/SDE Plan Check	\$20,000	
4. Energy Analysis Fee	\$15,000	
5. Other	\$5,000	
Plans Subtotal		\$533,774
C. CONSTRUCTION (See Construction Cost Allowance Worksheet)	\$4,160,323	
1. Utility Services	\$200,000	
2. Off-Site Development	\$200,000	
3. Service-Site Development (\$67,000 per acre x 12)	\$804,000	
4. General Site Development	\$544,000	
5. Technology (5% of Construction)	\$208,016	
6. Unconventional Energy	\$259,000	
Construction Subtotal		\$6,375,339
D. TESTS		\$60,000
E. INSPECTION		\$90,000
F. FURNITURE & EQUIPMENT		\$294,927
(\$5 x 43,198 = \$215,990) + (\$10 x 1,080 = \$10,800) + Cost Index Factor of 1.30		
Total Items A-F		\$11,016,940
G. CONTINGENCIES		\$167,254
H. ITEMS NOT FUNDED BY OFFICE OF PUBLIC SCHOOL CONSTRUCTION		\$292,016
I. TOTAL ESTIMATED COST		\$11,476,210

***ADDITIONAL PROJECT COSTS**

Technology F&E @ additional 5% of construction	\$208,016
Library books (8 books/student @ \$15)	\$84,000
TOTAL COSTS NOT FUNDED BY OFFICE OF PUBLIC SCHOOL CONSTRUCTION	\$292,016

Note: The service site development cost was determined using figures from Adobe Bluffs Elementary School. In 1989 the site was appraised at the following values:

Finished:	\$1,400,000
Unfinished:	\$815,000

The difference, \$585,000, was divided by the site acreage (12.7) to arrive at a per acre improvement cost of \$48,750. This amount was inflated at the rate of 4% per year for 8 years to arrive at the current cost of \$67,000 per acre.

**POWAY UNIFIED SCHOOL DISTRICT
SUMMARY OF ESTIMATED COSTS - MIDDLE SCHOOL
CITY FUTURE URBANIZING AREA - SUBAREA IV
LAND COST AT \$265,000 PER ACRE**

A. SITE		
1. Purchase Price of Property (30 acres [25 net usable] @ \$265,000 per acre)	\$7,950,000	
2. Environmental Mitigation Contingency Fund (10 acres @ \$30,000 per acre + 15 acres @ \$60,000 per acre)	\$1,200,000	
3. Appraisals	\$10,000	
4. Escrow/Title	\$8,000	
5. Surveys	\$10,000	
6. EIR	\$40,000	
7. Other (Legal)	\$7,500	
Site Subtotal		\$9,225,500
B. PLANS		
1. Architect's Fee	\$952,461	
2. DSA/CDE Plan Check	\$88,000	
3. Energy Analysis Fee	\$25,000	
4. Preliminary Tests	\$25,000	
5. Other	\$6,000	
Plans Subtotal		\$1,096,461
C. CONSTRUCTION		
1. New Construction (See Construction Cost Allowance Worksheet)	\$10,492,237	
2. Utility Services	\$300,000	
3. Off-Site Development	\$1,020,000	
4. Service-Site Development (\$37,000 per acre x 30)	\$1,110,000	
5. General Site Development (8% + \$15/acre) (8% x \$15,000 per acre) (\$891,000 + \$450,000)	\$1,289,379	
6. Technology (5% of Construction)	\$524,612	
7. Unconventional Energy	\$563,000	
Construction Subtotal		\$15,299,228
D. TESTS		\$104,000
E. INSPECTION		\$162,000
F. FURNITURE & EQUIPMENT		\$837,767
(\$6 x 103,806 = \$622,836) + (\$10 x 2,160 = \$21,600) + Cost Index Factor of 1.30		
Total Items A-F		\$26,724,956
G. CONTINGENCIES (\$2,000 + 1.5% of total of items A-F)		\$402,874
H. ITEMS NOT FUNDED BY OFFICE OF PUBLIC SCHOOL CONSTRUCTION*		\$1,258,612
I. TOTAL ESTIMATED COST		\$28,386,442
*ADDITIONAL PROJECT COSTS		
Technology F&E @ additional 5% of construction	\$524,612	
Library books (8 books/student @ \$20/book)	\$217,000	
Landscaping (@ \$.44/sq. ft. x 1,089,000 sq. ft.)	\$479,000	
Landscape architect fees @ 8%	\$38,000	
TOTAL PROJECT COSTS NOT FUNDED BY OFFICE OF PUBLIC SCHOOL CONSTRUCTION		\$1,258,612

**POWAY UNIFIED SCHOOL DISTRICT
SUMMARY OF ESTIMATED COSTS - HIGH SCHOOL
CITY FUTURE URBANIZING AREA - SUBAREA IV
LAND COST AT \$265,000 PER ACRE**

A. SITE		
1. Purchase Price of Property (65.3 acres [60 net usable] @ \$265,000 per acre)	\$17,304,500	
2. Environmental Mitigation Contingency Fund (72 acres @ \$60,000 per acre + 15 acres @ \$60,000 per acre)	\$4,320,000	
3. Appraisals	\$15,000	
4. Escrow/Title	\$15,000	
5. Surveys	\$25,000	
6. EIR	\$60,000	
7. Other (Legal)	\$10,000	
Site Subtotal		\$21,749,500
B. PLANS		
1. Architect's Fee	\$1,754,864	
2. DSA/CDE Plan Check	\$170,000	
3. Energy Analysis Fee	\$30,000	
4. Preliminary Tests	\$40,000	
5. Other	\$10,000	
Plans Subtotal		\$2,004,864
C. CONSTRUCTION		
1. New Construction (202,449 sq.ft. @ \$100.55 per sq.ft. - includes 5% for technology)	\$19,662,192	
2. Utility Services	\$1,000,000	
3. Off-Site Development	\$1,625,000	
4. Service-Site Development (\$67,000 per acre x 72)	\$4,824,000	
5. General Site Development (8% of building allowance + \$15,000/acre) (\$1,629,000 + \$1,080,000)	\$2,652,975	
6. Technology (5% of Construction)	\$983,110	
7. Unconventional Energy	\$680,000	
Construction Subtotal		\$31,347,277
D. TESTS		\$350,000
E. INSPECTION		\$150,000
F. FURNITURE & EQUIPMENT (\$7 x 195,969 = \$1,371,783) + (\$10 x 6,480 = \$64,800) + Cost Index Factor of 1.30		\$1,867,558
Total Items A-F		\$57,469,199
G. CONTINGENCIES (\$2,000 + 1.5%)		\$864,038
H. ITEMS NOT FUNDED BY OFFICE OF PUBLIC SCHOOL CONSTRUCTION*		\$6,415,110
I. TOTAL ESTIMATED COST		\$64,748,347

***ADDITIONAL PROJECT COSTS**

Stadium with running track & seating for 500 - lights, pressbook, restrooms & concession stands, scoreboard, PA system, fencing, turfing, landscaping, ticket booths, etc.	\$1,300,000
Swimming pool (25 yd. x 25 meter) plus 10 yd. x 25 yd. Physically handicapped pool including 2,500 sq. ft. restrooms/office/storage, bleachers for 250, scoreboard, diving boards, fencing, etc.	\$2,300,000
Library books (10 books/student less 2 provided by the state) (8 books/student x 2,140 = 17,120 x \$20)	\$342,000
5% technology F&E (additional)	\$983,110
Landscaping (@ \$.44/sq. ft. x 3,136,320 sq. ft.)	\$1,380,000
Landscape architect fees @ 8%	\$110,000
TOTAL COSTS NOT FUNDED BY OFFICE OF PUBLIC SCHOOL CONSTRUCTION	\$6,415,110

EXHIBIT "C"

Form Certificate of Compliance

[LETTERHEAD OF POWAY UNIFIED SCHOOL DISTRICT]

_____, 199__

City Manager
City of San Diego
202 C Street
San Diego, CA 92101

Re: Certificate of Compliance for Building Permits
Subarea IV, Torrey Highlands Project
Final Subdivision Map No.: _____
Parcel/Lot Nos.: _____
Owner: _____

Dear _____:

The Poway Unified School District ("District") and the above identified Owner have entered into a School Impact Mitigation Agreement dated as of July 1, 1996 ("Mitigation Agreement") that provides for the mitigation of impacts on school facilities of the District caused by development of the Property. In consideration of the Owner's entry into and continued performance of the Mitigation Agreement, the recording of the Notice of Special Tax Lien recorded _____, 1996 as Document No. 96-_____, and the payment of the special taxes due pursuant thereto with respect to the above captioned Parcel/Lot Nos. ("Property"), the District hereby provides this certification to the City of San Diego ("City") that pursuant to Government Code Section 53080(b), the above referenced Property has complied with the requirements of the Mitigation Agreement and no fee charge or other requirement under such Section 53080(b) applies to the Property.

Notwithstanding anything to the contrary contained in Government Code Section 53080 or other applicable law, the District hereby determines that the City may issue building permits for development of any of the above described Property.

Very truly yours,

POWAY UNIFIED SCHOOL DISTRICT
By: Albert J. Abbott, Assistant Superintendent
Business Support Services

cc: [To Owner of Subject Property]

EXHIBIT “D”

RATE AND METHOD OF APPORTIONMENT FOR COMMUNITIES FACILITIES DISTRICT NO.2 OF THE POWAY UNIFIED SCHOOL DISTRICT

An Annual Special Tax and a One-Time Special Tax shall be levied on and collected in Community Facilities District No. 2 (“CFD No. 2”) of the Poway Unified School District (the “School District”) in each Fiscal Year, in an amount determined through the application of the rate and method of apportionment described below. All of the real property in CFD No. 2, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

SECTION A DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Acre” or “Acreage” means the land area of an Assessor’s Parcel as shown on an Assessor’s Parcel Map, or if the land area is not shown on an Assessor’s Parcel Map, the land area shown on the applicable final map, parcel map, condominium plan, or other recorded county parcel map.

“Act” means the Mello-Roos Communities Facilities Act of 1982 as amended, being Chapter 2.5, Division 2 of Title 5 of the Government Code of the State of California.

“Administrative Expenses” means any ordinary and necessary expenses of the School District to carry out its duties as the legislative body of CFD No. 2.

“Annual Special Tax” means the Special Tax to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property to fund the Annual Special Tax. Requirement.

“Annual Special Tax Requirement” means the amount required in any Fiscal Year to pay: (1) the debt service on all Bonds or other indebtedness or other periodic costs on the Bonds or other indebtedness of CFD No. 2, (2) the cost of acquisition or construction of future Facilities, (3) Administrative Expenses of CFD No. 2, (4) the costs associated with the release of funds from an escrow account, (5) any amount required to establish or replenish any reserve funds established in association with the Bonds or other indebtedness of CFD No. 2, (6) lease payments for existing or future Facilities, and (7) any other payments permitted by law.

“Assessor’s Parcel” means a lot or parcel of land designated on an Assessor’s Parcel Map with an assigned Assessor’s Parcel Number.

“Assessor's Parcel Map” means an official map of the Assessor of the county designating parcels by Assessor’s Parcel Number.

“Assessor's Parcel Number” means that number assigned to an Assessor’s Parcel by the County Assessor for purposes of identification.

“Assigned Annual Special Tax” means the Annual Special Tax on an Assessor’s Parcel of Developed Property determined pursuant to Section C.1. below.

“Assistant Superintendent of Business” means the Assistant Superintendent of Business of the School District or his/her designee.

“Attached Unit” means an Assessor’s Parcel of Residential Property that consists of or shall consist of a building or buildings in which each of the individual Units have at least one common wall with another Unit.

“Board” means the Board of Education of the School District or its designee.

“Bonds” means any obligation to repay a sum of money, including obligations in the form of bonds, notes, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals, or long-term contracts, or any refunding thereof, which obligation may be incurred by CFD No. 2.

“Building Square Footage” or **“BSF”** for any Residential Property means the square footage of internal living space, exclusive of garages or other structures not used as living space, as determined by reference to the building permit application for such Assessor’s Parcel.

“CFD No. 2” means Community Facilities District No. 2 established by the School District under the Act.

“County” means the County of San Diego.

“Detached Unit” means an Assessor’s Parcel of Residential Property which is not an Attached Unit.

“Developed Property” means all Assessor’s Parcels in CFD No. 2 for which building permits for new construction were issued on or before March 1 of the prior Fiscal Year.

“Exempt Property” means the property designated as being exempt from special taxes in Section H.

“Facilities” means those school facilities (including land for school sites and required environmental mitigation) and other facilities which the School District is authorized by law to construct, own or operate and which would service the properties within CFD No. 2.

“Final Subdivision Map” means a final tract map, parcel map, lot line adjustment, or functionally equivalent map or instrument that creates building sites, recorded in the County Office of the Recorder.

“Fiscal Year” means the period commencing on July 1 of any year and ending the following June 30.

“Gross Prepayment Amount” for any Assessor’s Parcel of Developed Property means that gross prepayment amount calculated as provided in Section E.1.

“Index” means the Lee Saylor Class D Construction Index published by the State Allocation Board. In the event the Lee Saylor Class D Construction Index ceases to be published, the index used by the State Allocation Board in place of the school construction cost index, currently found in the monthly meeting agenda of the Lee Saylor Class D Construction Index shall be applied.

“Initial Assigned Annual Special Tax” means the Assigned Annual Special Tax for an Assessor’s Parcel which has been designated as Developed Property for the first time in that Fiscal Year.

“Land Use Class” means any of the classes of Developed Property listed in Table 1.

“Maximum Special Tax” means the maximum Special Tax, determined in accordance with Section C, that can be levied by CFD No. 2 in any Fiscal Year on Taxable Property.

“One-Time Special Tax” means the single payment Special Tax to be levied in any Fiscal Year on each Assessor’s Parcel of Undeveloped Property.

“Partial Prepayment Amount” means the dollar amount required to prepay a portion of the Annual Special Tax obligation on any Assessor’s Parcel, determined pursuant to Section F.

“Prepayment Amount” means the dollar amount required to prepay all of the Annual Special Tax obligation on any Assessor’s Parcel, determined pursuant to Section E.

“Proportionately” means that the ratio of the actual Annual Special Tax levy to the applicable Maximum Annual Special Tax is equal for all applicable Assessor’s Parcels.

“Residential Property” means all Assessor’s Parcels of Developed Property for which the building permit was issued for purposes of constructing a Unit(s).

“Senior Citizen Housing Unit” means an Assessor’s Parcel of Residential Property within CFD No. 2. designated as senior citizen housing, residential care facilities for the elderly, or multi-level care facilities for the elderly as referred to in California Government Code Section 65995.1. For purposes hereof, it shall be sufficient to designate units as Senior Citizen Housing if Senior Citizen Restrictions have been effected.

“Senior Citizen Restriction” means (i) a restriction limiting the use of Units to senior citizen housing under the Subarea Plan, a final map or other governmental entitlements, or a declaration of covenants, conditions and restrictions or any similar recorded instrument or (ii) licensing from appropriate agencies received for residential care facilities for the elderly or multi-level care facilities as those terms are defined in Health and Safety Code Section 1569.2 and Government Code Section 15432(d)(9), respectively.

“**Special Tax**” means the special tax to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property.

“**Subarea Plan**” means the Torrey Highlands Subarea Plan, draft dated June 10, 1996, and any amendments or implementing resolutions with respect hereto that do not increase the number of Units or other development affecting the need for Facilities.

“**Taxable Property**” means all Assessor’s Parcels within the boundaries of CFD No. 2 which are not exempt from the Special Tax pursuant to law or Section H below.

“**Undeveloped Property**” means all Assessor’s Parcels in CFD No. 2 for which no building permit was issued on or before March 1 of the prior Fiscal Year.

“**Unit**” means each separate residential dwelling unit which comprises an independent facility capable of conveyance separate from adjacent residential dwelling units. Each Unit shall be classified as either a Detached Unit or an Attached Unit.

**SECTION B
ASSIGNMENT TO LAND USE CLASSES**

For each Fiscal Year, beginning with Fiscal Year 1996-97, all Taxable Property within CFD No. 2 shall be classified as Developed Property, Undeveloped Property or Exempt Property, and each Assessor’s Parcel of Developed Property shall be assigned to a Land Use Class by reference to Table 1.

**TABLE 1
DEVELOPED PROPERTY LAND USE CLASSES FOR CFD NO. 2**

Land Use Class	Land Use
1	Detached Unit
2	Attached Unit
3	Senior Citizen Housing Unit

**SECTION C
MAXIMUM SPECIAL TAX**

1. Developed Property

The Maximum Special Tax for each Assessor's Parcel classified as Developed Property in any Fiscal Year shall be the sum of (i) the amount derived by the application of the Assigned Annual Special Tax, plus (ii) the amount of any portion of the One-Time Special Tax that is not collected at building permit with respect to an Assessor’s Parcel of Undeveloped Property which may be levied on such Assessor’s Parcel when classified as Developed Property in the following Fiscal Year. The Initial Assigned Annual Special Tax for each Assessor’s Parcel of Developed Property in Fiscal Year 1996-97 shall be the amount determined by reference to Table 2.

**TABLE 2
INITIAL ASSIGNED ANNUAL SPECIAL
TAXES FOR DEVELOPED PROPERTY**

Land Use Class	Land Use	Initial Assigned Annual Special Tax 1996-97
1	Detached Unit	\$1,875 per Unit
2	Attached Unit	\$772 per Unit
3	Senior Citizen Housing Unit	\$0.00 per Unit

Each July 1, commencing July 1, 1997, the Initial Maximum Annual Special Tax on each Assessor's Parcel of Developed Property shall be increased by the greater of the annual percentage change in the Index or two percent (2.00%) of the amount in effect in the prior Fiscal Year. The annual percentage change in the Index shall be calculated for the twelve (12) months ending December 31 of the prior Fiscal Year. For Fiscal Years following the Fiscal Year in which the Initial Maximum Annual Special Tax was applied, the Assigned Annual Special Tax shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year.

2. Undeveloped Property Maximum Special Tax

The Maximum Special Tax for any Assessor's Parcel classified as Undeveloped Property in in any Fiscal Year shall be the sum of the Annual Special Tax and the One-Time Special Tax applicable to such Assessor's Parcel in such Fiscal Year.

a. Annual Special Tax

The Annual Special Tax per acre of an Assessor's Parcel classified as Undeveloped Property in Fiscal Year 1996-97 shall be the amount required to (i) pay debt service or bonds issued to acquire the elementary, middle and high school sites in Subarea IV, (ii) pay Administrative Expenses for the Fiscal Year, and (iii) provide 110 percent debt service coverage divided by all Undeveloped Property, and shall not exceed \$100 per acre. On each July 1, commencing July 1, 1997, the Maximum Annual Special Tax on each Assessor's Parcel of Undeveloped Property shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year.

b. One-Time Special Tax

The One-Time Special Tax shall be levied and collected for each Assessor's Parcel of Undeveloped Property on or before the date a building permit for Residential Property is issued for such Assessor's Parcel. The One-Time Special Tax shall be in an amount equal to \$1.84 per square foot of Building Square Footage for Land Use Classes 1 and 2 and \$0.30 per square foot of Building Square Footage for Land Use Class 3. On each March 1, commencing March 1, 1997, the amount of the One-Time Special Tax shall be increased by the greater of the annual percentage change in the Index or two percent (2.00%) of the amount in effect in the prior Fiscal Year. The annual percentage change in the Index shall be calculated for the twelve (12) months ending December 31 of the prior Fiscal Year.

**SECTION D
METHOD OF APPORTIONMENT
OF THE ANNUAL SPECIAL TAX**

Commencing Fiscal Year 1996-97 and for each subsequent Fiscal Year, the Assistant Superintendent of Business shall determine the Annual Special Tax Requirement to be collected from Taxable Property in CFD No. 2 in such Fiscal Year. The Special Tax shall be levied as follows until the amount of the levy equals the Annual Special Tax Requirement:

First: The Annual Special Tax shall be levied on each Assessor's Parcel of Developed Property at the Maximum Special Tax applicable to such Assessor's Parcel.

Second: If the sum of the amounts levied on Assessor's Parcels in the first step above is less than the Annual Special Tax Requirement, then the Annual Special Tax shall be levied on each Assessor's Parcel of Undeveloped Property up to the Maximum Special Tax applicable to such Assessor's Parcel to satisfy the Annual Special Tax Requirement.

**SECTION E
PREPAYMENT OF ANNUAL SPECIAL TAX**

The Annual Special Tax obligation of an Assessor's Parcel of Developed Property or an Assessor's Parcel of Undeveloped Property for which a building permit has been issued may be prepaid. An owner of an Assessor's Parcel intending to prepay the Annual Special Tax obligation shall provide CFD No. 2 with a written notice of intent to prepay. Within 30 days of receipt of such written notice, CFD No. 2 shall notify such owner of the Prepayment Amount of such Assessor's Parcel.

1. Prior to Issuance of Bonds

Prior to the issuance of any Bonds, the Prepayment Amount for each Assessor's Parcel of Developed Property shall be the amount equal to the Gross Prepayment Amount minus the amount of One-Time Special Tax paid with respect to such Assessor's Parcel. The Gross Prepayment Amount for Fiscal Year 1996-97 is (i) \$18,391 for each Detached Unit and (ii) \$7,891 for each Attached Unit. On July 1, commencing July 1, 1997, the Gross Prepayment Amounts shall be increased by the greater of the annual percentage change in the Index or two percent (2.00%) of the amount in effect in the prior Fiscal Year. The annual percentage change in the Index shall be calculated for the twelve (12) months ending December 31 of the Fiscal Year.

2. Subsequent to Issuance of Bonds

After the issuance of any Bonds, the Prepayment Amount for each Assessor's Parcel of Developed Property shall be the amount equal to the Gross Prepayment Amount (as calculated in Section E.1) minus (i) the amount of One-Time Special Tax paid and (ii) the amount of regularly scheduled principal of such Bonds retired in CFD No. 2 with respect to such Assessor's Parcel, which amount shall be determined by multiplying (a) the amount of regularly scheduled principal that has been retired on such Bonds, times (b) the percentage determined by reference to Table 3.

**TABLE 3
PRINCIPAL RETIREMENT PERCENTAGE
FOR DEVELOPED PROPERTY**

Land Use Class	Land Use	Principal Retirement Percentage
1	Detached Unit	0.0430%
2	Attached Unit	0.0184%

**SECTION F
PARTIAL PREPAYMENT OF SPECIAL TAX**

At the time residential Final Subdivision Map is recorded for any Taxable Property within CFD No. 2, the property owner filing said Final Subdivision Map for recordation concurrently may elect for all of the Assessor’s Parcel created by said Final Subdivision Map to prepay all or any portion of the applicable future Maximum Special Taxes. In order to prepay all or any portion of the applicable future Maximum Special Taxes, the residential Final Subdivision Map must contain at least 25 Detached Units or 50 Attached Units. The partial prepayment of the Annual Special Tax shall be collected at the time of the issuance of a building permit. The Partial Prepayment Amount shall be calculated according to the following formula:

$$PP = P_E \times F.$$

These terms have the following meanings:

PP = the Partial Prepayment Amount,

P_E = the Prepayment Amount calculated according to Section E

F = the percent by which the owner of the Assessor’s Parcel is partially prepaying the Annual Special Tax obligation.

The owner of any Assessor’s Parcel who desires such partial prepayment shall notify the Board of (i) such owner’s intent to partially prepay the Annual Special Tax obligation and, (ii) the percentage by which the Annual Special Tax obligation shall be prepaid. The Board shall provide the owner with a statement of the amount required for the partial prepayment of the Annual Special Tax obligation for an Assessor’s Parcel within ten (10) working days of the request and may charge a reasonable fee for providing this service.

With respect to any Assessor’s Parcel that is partially prepaid, the Board shall indicate in the records of CFD No. 2 that there has been a partial prepayment of the Annual Special Tax and shall cause a suitable notice to be recorded in compliance with the Act within 30 days of receipt of such partial prepayment of Annual Special Taxes, to indicate the partial prepayment of Annual Special Taxes and the partial release of the Annual Special Tax lien on such Assessor’s Parcel, and the obligation of such Assessor’s Parcel to pay such prepaid portion of the Annual Special Tax shall cease. The portion of the Annual Special Tax with respect to any Assessor’s Parcel, equal to the outstanding percentage (1.00 - F) of the remaining Maximum Annual Special Tax, shall continue to be levied on such Assessor’s Parcel.

The amount of the Partial Prepayment Amount deposited in the applicable redemption fund may be in an amount able to redeem other than a \$5,000 increment of Bonds. In such cases, the increment above \$5,000 or integral multiple thereof will be retained in the applicable redemption fund to be used with the next prepayment of Bonds.

Notwithstanding the foregoing, no partial prepayment shall be allowed unless the amount of Maximum Annual Special Taxes that may be levied on Taxable Property within CFD No. 2 both prior to and after the proposed partial prepayment is at least 1.1 times annual debt service on all Outstanding Bonds.

SECTION G TERMINATION OF SPECIAL TAX

The Annual Special Tax shall be levied for a term of twenty-five (25) Fiscal Years after the last bond series is issued for CFD No. 2, but in no event shall the Annual Special Tax be levied later than Fiscal Year 2045-46.

SECTION H EXEMPTIONS

The Assistant Superintendent of Business shall not levy a Special Tax on properties owned by the State of California, Federal or other local governments except as otherwise provided in Sections 53317.3, 53317.5 and 53340.1 of the Government Code or on properties within the boundaries of CFD No. 2 which are used as places of worship and are exempt from *ad valorem* property taxes because they are owned by a religious organization. Notwithstanding the above, the Assistant Superintendent of Business shall not levy a Special Tax on (i) properties owned by a homeowners' association or (ii) properties with public or utility easements making impractical their utilization for other than the purposes set forth in the easement or (iii) Assessor's Parcels composed entirely of land irrevocably offered for dedication to the City as open space provided that the owner of such land has, prior to March 1 with respect to the following Fiscal Year, delivered to the Assistant Superintendent of Business satisfactory evidence of the continued effect of such irrevocable offer and its coverage of the entire Assessor's Parcel, or (iv) that portion of any Assessor's Parcel designated in the Subarea Plan as a school site which is subject to an existing contract to sell such property to the District for school purposes.

SECTION I APPEALS

Any property owner claiming that the amount or application of the Special Tax is not correct may file a written notice of appeal with the Assistant Superintendent of Business not later than one (1) calendar year after having paid the first installment of the Special Tax that is disputed. The Assistant Superintendent of Business shall promptly review the appeal, and if necessary, meet with the property owner, consider written and oral evidence regarding the amount of the Special Tax and rule on the appeal. If the Assistant Superintendent of Business's decision requires that the Special Tax for an Assessor's Parcel be modified or

changed in favor of the property owner, a cash refund shall not be made (except for the last year of levy), but an adjustment shall be made to the Annual Special Tax on that Assessor's Parcel in the subsequent Fiscal Year(s).

SECTION J
MANNER OF COLLECTION

The Annual Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes, provided, however, that CFD No. 2 may collect Annual Special Taxes at a different time or in a different manner if necessary to meet its financial obligations. The One-Time Special Tax shall be collected prior to the issuance of a building permit and if not so collected may be added to the levy on the tax rolls in the next following Fiscal Years.

EXHIBIT "E"

Mitigation Credit

\$ _____
Stated Amount

_____, 199__
Issuance Date

FOR VALUE RECEIVED, the undersigned, Poway Unified School District ("District"), hereby issues to _____, a California _____ ("Holder"), this Mitigation Credit, which is issued pursuant to the terms of that certain _____ School Site Transfer Agreement and Escrow Instructions dated as of July 1, 1996 ("Agreement"), between the District and _____, a California _____ ("Owner") and the related Torrey Highland School Impact Mitigation Agreement dated as of July 1, 1996 (the "Mitigation Agreement"), entered into by Owner, the District and other land owners identified therein. All capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement and the Mitigation Agreement.

All or any portion of the Stated Amount of this Mitigation Credit may be tendered to, and shall be accepted by District in lieu of cash on a dollar-for-dollar basis in satisfaction of the required payment of Mitigation Payments or One-Time Special Taxes or the Gross Prepayment Amount due to District under the Mitigation Agreement and applicable to the development of any property within the Torrey Highlands Subarea Plan approved by the City Council of the City of San Diego on July __, 1996. Upon tender to District, this Mitigation Credit shall be canceled by District; provided, however, that District shall issue a new Mitigation Credit to the registered Holder hereof in a Stated Amount equal to the portion of the Stated Amount of this Mitigation Credit, if any, that is not applied to the payment of Mitigation Payments or One-Time Special Taxes or the Gross Prepayment Amount pursuant to the Mitigation Agreement.

The District will keep in its office of Assistant Superintendent, Business Support Services, sufficient books for the registration and transfer of Mitigation Credits which books (the "Register") shall show the number, date, stated amount and last known owner of each Mitigation Credit and shall at all times be open to inspection by any Holder of a Mitigation Credit during regular business hours upon reasonable notice, and, upon presentation for such purpose, the District, under such reasonable regulations as it may prescribe, shall register or transfer or cause to be registered or transferred, on said books, the ownership of the Mitigation Credits. Ownership of any Mitigation Credit may be transferred only upon the Register by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Mitigation Credit for cancellation, accompanied by delivery of a duly written form of transfer, approved by the District. Whenever a Mitigation Credit is surrendered for transfer, the District shall execute and deliver a new Mitigation Credit for a like aggregate Stated Amount.

This Mitigation Credit shall be governed and construed in accordance with the laws of the State of California. This instrument is intended to function as an equivalent to cash in all

respects for the payment of Mitigation Payments, One-Time Special Taxes and Gross Prepayment Amounts due to District under the Mitigation Agreement. Accordingly, this Mitigation Credit shall not be subject to any offsets or defenses that District may have, including defenses based on diligence, presentment, protest, demand and notice of every kind and (to the fullest extent permitted by law), any statute of limitations. District hereby agrees that no failure on the part of the Holder of this Mitigation Credit to exercise any power, right or privilege hereunder, or to insist upon prompt compliance with the terms hereof, shall constitute a waiver hereof. This Mitigation Credit shall not expire or be canceled except to the extent used to pay Mitigation Payments, One-Time Special Taxes and Gross Prepayment Amounts. The District may redeem this Mitigation Credit at any time upon written notice to the Holder hereof and the payment, or setting aside for payment, to such Holder of the Stated Amount of this Mitigation Credit.

District represents and warrants to Holder that the issuance of this Mitigation Credit has been duly authorized by District pursuant to a resolution by the Board of Education of District.

IN WITNESS WHEREOF, this Mitigation Credit is issued on the Issuance Date above written in Poway, California.

POWAY UNIFIED SCHOOL DISTRICT

By: _____

Attest:

ASSIGNMENT

For value received, the undersigned do(es) hereby sell, assign and transfer unto _____
_____ this Mitigation Credit.

Dated: _____

EXHIBIT "F"

RECORDING REQUESTED BY:)
)
 _____)
 _____)
 _____)
)
 WHEN RECORDED MAIL TO:)
)
 Luce, Forward, Hamilton & Scripps LLP)
 600 West Broadway, Suite 2600)
 San Diego, CA 92101)
 Attn: Thomas A. May, Esq.)
)

Above Space for Recorder's Use

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement ("Agreement") is entered into as of _____, 199__ by and between, _____, a ("Assignor") and _____, a ("Assignee").

RECITALS

A. Assigner is the owner of that certain real property located in the County of San Diego, State of California, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (the "Property"). The Property is part of Subarea IV identified in the Framework Plan for the North City Future Urbanizing Area, February 1995, as amended of the City of San Diego (the "City"), as further identified in the Torrey Highlands Subarea Plan, draft dated July __, 1996 (the "Subarea Plan") approved by the City Council of the City on July __, 1996.

B. In connection with the preparation of the Subarea Plan, Assignor and the Poway Unified School District (the "District") entered into that certain Subarea IV Torrey Highlands School Impact Mitigation Agreement, dated as of July 1, 1996 and recorded as Instrument No. _____ in the official records of the San Diego County Recorder's Office (the "Mitigation Agreement") a copy of which is attached hereto as Exhibit "B" and incorporated herein by reference.

C. In connection with its sale of the Property to Assignee, Assignor desires to assign all of its rights and obligations with respect to the Property under the Mitigation Agreement to Assignee and Assignee desires to accept such assignment and assume such obligations under the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the above recitals and the terms and conditions herein set forth, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignment and Deletion. Concurrent with Assignor's conveyance of the Property to the Assignee, Assignor hereby assigns to Assignee all of Assignor's right, title and interest under the Mitigation Agreement with respect to the Property (the "Assigned Interests") and delegates to Assignee all of Assignor's duties and obligations under the Mitigation Agreement with respect to the Property (the "Delegated Obligations").

2. Acceptance and Assumption. Assignee hereby accepts Assignor's assignment to Assignee of the Assigned Interests and assumes and shall perform the Delegated Obligations as if named as an original party to the Mitigation Agreement and upon execution of the attached Consent and Release by District the Assignee shall be deemed a party to the Mitigation Agreement and an "Owner" as defined therein.

3. Assignor's Warranties. Assignor warrants to Assignee that (a) the Mitigation Agreement is in full force and effect and unmodified, (b) Assignor has full and lawful authority to assign its interest in the Mitigation Agreement with respect to the Property in accordance with the terms of the Mitigation Agreement and (c) as of the date of this Agreement, there is no default by Assignor under the Mitigation Agreement or any circumstances which by lapse of time or after notice would be a default under the Mitigation Agreement. These warranties shall survive the execution of this Agreement.

4. Mutual Indemnification. Assignor shall defend and indemnify Assignee from and against any and all loss, liability and expense (including, without limitation, reasonable attorneys' fees and costs) arising out of any breach by Assignor of its warranties contained in this Agreement; and Assignee shall defend and indemnify Assignor from and against any loss, liability and expense, including, (without limitation, reasonable attorneys' fees and costs) arising out of any breach by Assignee of its agreements contained herein.

5. Joint and Several Liability. If the term "Assignee" refers to more than one (1) corporation, partnership, trust, association, other entity or individual, their liability under this Agreement shall be joint and several and they assume the Delegated Obligations jointly and severally.

6. Entire Agreement. This Agreement embodies the entire agreement of Assignor and Assignee with respect to the subject matter of this Agreement, and it supersedes any prior agreements, whether written or oral, with respect to the subject matter of this Agreement.

7. Binding Effect. The terms and conditions of this Agreement will inure to the benefit of, and will be binding on, the successors, assigns, personal representatives, heirs, executors, devisees, administrators, trustees and legatees of Assignor and Assignee.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Agreement as of the date first set forth above.

ASSIGNOR:

ASSIGNEE:

_____, a

_____, a

By: _____
Its: _____

By: _____
Its: _____

CONSENT AND RELEASE

District hereby consents to the foregoing Assignment and Assumption Agreement and hereby releases Assignor as provided below on the express condition that District's consent shall not be deemed a consent to any subsequent assignment, but rather any subsequent assignment shall require the consent of District (or approval of the assumption agreement to be signed by the proposed assignee if such assumption agreement is not substantially in the form of the above Assignment and Assumption Agreement) pursuant to and in accordance with the terms and conditions of the Mitigation Agreement .

Subject to the foregoing condition, District hereby releases Assignor from the Delegated Obligations.

APPROVED AS TO-FORM:

DISTRICT:

Luce, Forward, Hamilton & Scripps LLP
Legal Counsel
Poway Unified School District

Poway Unified School District

By: _____
Thomas A May, Esq.
Partner

By: _____
Albert J. Abbott
Assistant Superintendent,
Business Support Services

**TORREY HIGHLANDS SUBAREA PLAN
APPENDIX B**

RECOMMENDED PLANT LIST

TORREY HIGHLANDS RECOMMENDED PLANT LIST

Trees	Evergreen	Deciduous	Flowers	Full Sun Tolerant	Shade Tolerant	Drought Tolerant	Street Tree	Parking Lot Tree	Pedestrian/Plaza Tree	Shade tree	Accent/Entry Tree	Screen Tree	Slope Tree
Botanical Name - Common Name	Characteristics						Primary Uses						
<i>Alnus rhombifolia</i> - White Alder		●		●						●		●	
<i>Cinnamomum camphora</i> - Camphor Tree	●			●			●	●	●	●			
<i>Cupaniopsis anacardioides</i> - Carrot Wood	●			●			●	●	●	●			
<i>Eriobotrya deflexa</i> - Bronze Loquat	●		●	●	●	●			●		●		
<i>Erythrina coralloides</i> - Naked Coral Tree		●	●	●					●		●		
<i>Eucalyptus citriodora</i> - Lemon Scented Gum	●			●	●	●	●	●					●
<i>Eucalyptus cladocalyx</i> - Sugar Gum	●			●		●						●	●
<i>Eucalyptus maculata</i> - Spotted Gum	●			●		●	●	●					●
<i>Eucalyptus sideroxylon</i> 'Rosea' - Red Ironbark	●			●		●						●	●
<i>Ficus rubiginosa</i> - Rustyleaf Fig	●			●	●			●		●			
<i>Jacaranda mimosifolia</i> - Jacaranda		●	●	●					●		●		
<i>Koelreuteria bipinnata</i> - Chinese Flame Tree		●	●	●		●			●		●		
<i>Liquidambar styraciflua</i> - Sweet Gum		●		●			●		●				
<i>Magnolia grandiflora</i> - Southern Magnolia			●	●			●		●	●			
<i>Melaleuca quinquenervia</i> - Cajeput Tree	●			●		●			●		●	●	
<i>Metrosideros excelsus</i> - N.Z. Christmas Tree	●		●	●		●			●				●
<i>Pinus canariensis</i> - Canary Island Pine	●			●			●				●	●	
<i>Pinus elderica</i> - Mondell Pine	●			●		●						●	●
<i>Pinus halepensis</i> - Aleppo Pine	●			●		●						●	●
<i>Pinus pinea</i> - Stone Pine	●			●						●	●		
<i>Platanus acerifolia</i> - London Plane Tree		●		●			●	●	●				
<i>Podocarpus gracilior</i> - Fern Pine	●			●	●		●	●		●			
<i>Pyrus calleryana</i> 'Aristocrat' - Flowering Pear		●	●	●					●		●		
<i>Quercus ilex</i> - Holly Oak	●			●			●	●					
<i>Schinus molle</i> - California Pepper Tree	●			●		●						●	●
<i>Tipuana tipu</i> - Tipu Tree		●	●	●				●		●			
<i>Tristania conferta</i> - Brisbane Box	●			●		●	●	●					

For revegetation of natural areas, reference Appendix C Torrey Highlands Biological Resources Restoration and Enhancement Plan.

TORREY HIGHLANDS RECOMMENDED PLANT LIST

Shrubs	Evergreen	Large Shrubs	Flowering Shrubs	Full Sun Tolerant	Shade Tolerant	Drought Tolerant	Formal Fedge Shrubs	Parking Lot Areas	Pedestrian/Plaza Shrubs	Accent/Entry Shrubs	Foundation Shrubs	Screen/Background Shrubs	Slope/Erosion Control
Botanical Name - Common Name	Characteristics						Primary Uses						
Acacia longifolia - Sydney Golden Wattle	●	●	●	●		●						●	●
Acacia redolens - NCN	●		●	●		●					●		●
Agapanthus africanus - Lily of the Nile	●		●	●	●				●	●	●		
Agapanthus a. Queen Ann - Lily of the Nile	●		●	●	●				●	●	●		
Arbutus unedo - Strawberry Tree	●	●	●	●		●						●	●
Bougainvillea Crimson Jewel - NCN	●		●	●		●				●	●		●
Camellia sasanqua var. Camellia Varieties	●		●		●				●		●		
Clarissa m. Tuttle - Natal Plum	●		●	●		●	●	●	●		●		
Chamerops humilis - Mediterranean Fan Palm	●	●		●					●	●			
Cistus purpureus - Orchid Rock Rose	●		●	●		●		●		●			●
Cotoneaster lacteus - Red Clusterberry	●	●	●	●		●						●	●
Dietes bicolor - Yellow Butterfly Iris	●		●	●					●	●	●		
Eleagnus pungens 'Fruitland' - Silverberry	●	●		●		●						●	●
Escallonia compacta - Dwarf Escallonia	●		●	●		●	●	●	●		●		●
Grevillea 'Noelii' - NCN	●			●		●		●			●		
Heteromeles arbutifolia - Toyon	●	●	●	●		●						●	●
Hibiscus rosa-sinensis var. Hibiscus Varieties	●	●	●	●			●		●	●	●		
Ilex vomitoria nana - Dwarf Yaupon Holly	●			●	●		●		●		●		
Lantana camara var. - Lantana Varieties	●		●	●		●		●	●	●	●		●
Ligustrum j. Texanum - Texas Privet	●		●	●			●	●	●		●		
Liriope m. 'Big Blue' - Lily Turf	●		●		●				●	●	●		
Melaleuca nesophila - Pink Melaleuca	●	●	●	●		●						●	●
Myoporum laetum - NCN	●	●		●		●						●	●
Nandina domestica - Heavenly Bamboo	●				●				●	●	●		
Nerium oleander var. - Oleander Varieties	●	●	●	●		●	●			●		●	
Nerium o. Petite Salmon - Dwarf Oleander	●		●	●		●	●	●		●	●		●
Orphiopogon japonica - Mondo Grass	●				●				●				●
Phormium tenax - Dwarf New Zealand Flax	●			●		●				●	●		
Photinia fraseri - Fraser's Photinia	●	●	●	●		●					●	●	●
Pittosporum t. Variegata - Variegated Tobira	●			●	●	●	●	●	●		●		

For revegetation of natural areas, reference Appendix C Torrey Highlands Biological Resources Restoration and Enhancement Plan.

TORREY HIGHLANDS RECOMMENDED PLANT LIST

Shrubs (cont.)	Evergreen	Large Shrubs	Flowering Shrubs	Full Sun Tolerant	Shade Tolerant	Drought Tolerant	Formal Fedge Shrubs	Parking Lot Areas	Pedestrian/Plaza Shrubs	Accent/Entry Shrubs	Foundation Shrubs	Screen/Background Shrubs	Slope/Erosion Control
Botanical Name - Common Name	Characteristics						Primary Uses						
<i>Plumbago auriculata</i> - Blue Cape Plumbago	●	●	●	●		●				●			●
<i>Raphiolepis indica</i> var. - India Hawthorn	●		●	●	●		●	●	●	●	●		
<i>Rhus ovata</i> - Sugar Bush	●	●		●		●		●	●				●
<i>Rosmarinus officinalis</i> - Rosemary	●			●		●					●		●
<i>Strelitzia reginea</i> - Bird of Paradise	●			●	●				●	●	●		
<i>Syzygium paniculatum</i> - Dwarf Bush Cherry	●			●	●		●		●		●		
<i>Viburnum suspensum</i> - Sandankwa Viburnum	●	●	●	●	●	●	●	●	●	●	●	●	●
<i>Xylosma congestum</i> - Shiny Xylosma	●	●	●	●	●	●	●	●	●	●	●	●	●

Vines/Groundcover	Evergreen	Vines/Vine-like Plant	Flowering	Full Sun Tolerant	Shade Tolerant	Drought Tolerant	Wall/Fence/Espalier	Parking Lot Areas	Pedestrian/Plaza Shrubs	Accent/Entry Areas	Trailing Groundcover	Mass Planting	Slope/Erosion Control
<i>Acacia redolens</i> - NCN	●			●		●						●	●
<i>Bougainvillea Barbara</i> Karst - Bougainvillea	●	●	●	●		●	●			●		●	●
<i>Ceanothus g. horizontalis</i> - Carmel Creeper	●		●	●		●		●				●	●
<i>Clytostoma callistegioides</i> - Violet Trumpet Vine	●	●	●	●	●	●	●		●				
<i>Delosperma alba</i> - White Trailing Ice Plant	●		●	●		●		●			●	●	●
<i>Gelsemium sempervirens</i> - Carolina Jessamine	●	●	●	●		●	●		●	●	●	●	●
<i>Hedera helix</i> 'Hahnii' - Hahn's Ivy	●	●		●	●		●	●	●		●		●
<i>Lantana montevidensis</i> - Trailing Lantana	●		●	●		●	●	●	●	●	●	●	●
<i>Lonicera j. 'Halliana'</i> - Hall's Honeysuckle	●	●	●	●		●		●	●		●	●	●
<i>Myoporum parvifolium</i> - Prostrate Myoporum	●			●		●		●	●		●	●	●
<i>Pelargonium peltatum</i> - Ivy Geranium	●		●	●				●	●	●	●	●	
<i>Rosmarinus Prostratus</i> - Spreading Rosemary	●			●		●		●			●	●	●
<i>Tecomaria capensis</i> - Orange Cape Honeysuckle	●	●	●	●		●	●						
<i>Trachelospermum jasminoides</i> - Star Jasmine	●	●	●	●	●		●	●	●	●	●		

For revegetation of natural areas, reference Appendix C Torrey Highlands Biological Resources Restoration and Enhancement Plan.

APPENDIX C

APPENDIX D OF BIOLOGICAL REPORT: RESTORATION AND ENHANCEMENT PLAN

TORREY HIGHLANDS RESTORATION AND ENHANCEMENT PLAN

1.0 INTRODUCTION

This is a Restoration and Enhancement Plan for impacts to sensitive habitats from the proposed development for Torrey Highlands of the Future Urbanizing Area. A conceptual view of the restored MSCP Preserve within Subarea IV is depicted in the main biotechnical report (Figure 9). Torrey Highlands may revegetate portions of the MSCP Open Space using two different approaches: passive habitat recovery done prior to development and active habitat restoration done prior to or concurrently with development. This plan will address both passive and active habitat restoration, although it should be emphasized that because the passive restoration approach would be conducted prior to any impacts, the landowner will be allowed to do as much or as little as they choose with the understanding that the mitigation credits received for the habitat recovery will be based on the quality of the restored habitat. The passive restoration portion of the plan should be viewed as providing guidelines for restoration, not as requirements for passive restoration efforts. Because some of this restoration may occur over a number of years in the future, and given the relatively young age of restoration ecology as a science, this plan should be viewed as conceptual in nature with the option for flexibility to take advantage of newly developing methods of restoration and direction from resource agencies. Each section of the plan will address the two methods separately.

In an effort to maximize the chances of restoration success, a conceptual phasing approach will be developed for each parcel, which allows the owner to coordinate restoration with others within the MSCP Open Space. The consulting biologist will carefully review other planned and approved mitigation efforts in order to properly provide this coordination. Both the City and resource agencies will review and approve these plans and the City will maintain a record of approved mitigation efforts which can be reviewed by applicants and/or their consultants.

1.1 Purpose

The purpose of the passive and active restoration plan is to provide general guidelines, criteria, and methodologies by which sensitive habitats can be re-established. This document suggests design criteria, provides planting recommendations, and describes a monitoring program. At the specific project level, more detailed plans will need to be developed for individual habitat types and specific locations for active restoration prior to approval of any portion of the project at the Tentative Map level of review. The majority of this appendix discusses active restoration; however, passive restoration is a viable alternative for much of Torrey Highlands and is briefly discussed in section 3.3. Passive restoration efforts will also require the development of project-specific plans that establish the baseline condition of the site, techniques to be used, and identifies potential mitigation credits to be obtained upon successful completion. If any activities are proposed that would alter the native soils or vegetation, these would also need to be identified. These plans shall be approved by City staff in

consultation with the resource agencies and in the context of the vision of a completed plan (see Figure 9 of this biotechnical report) prior to initiation.

2.0 DESIGN CRITERIA

The general restoration design principle for both the active and passive approaches will be the creation of a functional ecosystem. The active restoration area(s) shall be hydroseeded and/or planted with selected container stock in a distribution pattern to approximate native species distribution and composition in the appropriate habitats.

2.1 Site Selection

All or a majority of the restoration will likely occur within the MSCP Preserve. Individual landowners will have the option, however, to complete their restoration outside of the preserve with approval by the City if these restoration efforts contribute to regional habitat preservation efforts. Areas of on-site restoration shall be prioritized to maximize wildlife values. A key component will be to maximize collectivity between larger blocks of natural open space. Several criteria shall be followed in selecting an on-site location for a restoration project. The proposed restoration site shall include either disturbed habitat of the type to be enhanced, or other disturbed, non-native habitats such as non-native grasslands, ruderal vegetation, and areas currently being used for agriculture, that can successfully be revegetated to support a functional native habitat. It is preferable that the restoration site be adjacent to existing native habitat(s). In this scenario, the restoration project is more biologically valuable than an isolated island of habitat and can benefit by the natural immigration of propagules, seeds and pollen from the existing habitat.

2.2 Site Preparation

The topsoil and plants within the native habitat(s) that are to be removed during the construction of the proposed project shall be salvaged and stockpiled in order to reintroduce nutrients, propagules, and soil microorganisms to the restoration site. This salvaged and stockpiled mixture should be redistributed over the area to be revegetated prior to hydroseeding and planting. Reclaiming the topsoil from the areas slated for development for restoration purposes is one of the best preparation techniques for any restoration project. There is debate as to which method is the most productive method of stockpiling soil in order to maintain a viable population of soil mycorrhizae, an important component to the success of a restoration program. One method is to create a deep hole to store the stockpiled soil and prevent this soil from getting wet. Another method is to stockpile the soil in a shallow pile and not attempt to keep the soil dry. These methods are critical when soil is stored for an extended period of time. It is best to handle the topsoil during the dormant stage of the mycorrhizae and plant propagules (mid-summer to early fall). Soil can be stored up to one year before mycorrhizal viability starts to decline (Ted St. John and Larry Sward pers. comm.).

Any grading that is to be done in preparing the restoration site shall be consistent with the adjacent topography in adjacent undisturbed areas. Finished slopes should be “imprinted,” a process that roughens and opens a smooth-closed air-earth

interface to accelerate water infiltration and restoration. If necessary, jute mat or other appropriate material should be applied to the restoration area to reduce potential erosion. Areas should be deep watered prior to hydroseed application.

2.3 Plant Materials and Installation Specifications

Implementation of the restoration plan(s) must be coordinated among the project biologist, landscape architect, landscape contractor, and plant material contractor. Site-specific construction drawings shall be prepared by a licensed landscape architect, with input from the project biologist and must be approved by the City of San Diego subsequent to the review of this document.

2.3.1 Responsibilities

Installation of the plant materials and the irrigation system, and the maintenance of the restoration area once the installation phase is complete should be the responsibility of the landscape contractor who is hired by the project applicant in consultation with the project biologist. Separate contractors may be used for the installation and maintenance phases of the restoration, at the direction of the applicant. The preparation of the landscape design should be the responsibility of the landscape architect with input provided by the project biologist. Implementation of the five-year monitoring program should be the responsibility of the project biologist. The project biologist and landscape architect will be hired by the project applicant. The entire restoration program will be the ultimate responsibility of the project applicant until assumed by the homeowners association or other management entity.

2.3.2 Mitigation Bonding

In order to ensure the success of mitigation done concurrently, the project proponents should enter into a five-year secured agreement with the City of San Diego to cover the projected cost to install, monitor, and maintain the mitigation project. This agreement should be in the form of a 110 percent bond. The bond should be structured so that portions of the bond may be released as interim milestones are met. Restoration efforts done in advance of impacts will not require any mitigation bonding unless there is the potential for detrimental impacts to native vegetation, such as installation of watering systems that may need to be removed if the restoration effort fails.

2.3.3 Species Composition

Species to be planted in the restoration area(s) should be similar to those that occur in the impacted habitat, or if there is similar habitat adjacent to the restoration site, the species composition of the restoration area should reflect the adjacent habitat's composition.

Sensitive plant species such as California adolphia and Del Mar manzanita will be included in the planting palettes where appropriate.

Site-specific plant palettes shall be developed from previous biological survey data of the site and during a pre-construction restoration plan site survey. The following tables provide conceptual planting palettes for several habitat types as well as for the urban amenity and transition zones for the project.

Diegan Coastal Sage Scrub

The following species and container sizes are recommended as the major constituents for the plant palette for the Diegan coastal sage scrub restoration plan.

Scientific Name	Common Name	Container Size
<i>Artemisia californica</i>	California sagebrush	liner, 1 gallon, hydroseed mix
<i>Eriogonum fasciculatum</i>	Flat-top buckwheat	liner, 1 gallon, hydroseed mix
<i>Heteromeles arbutifolia</i>	Toyon	liner, 1 gallon
<i>Malosma laurina</i>	Laurel sumac	liner, 1 gallon
<i>Rhus integrifolia</i>	Lemonade berry	liner, 1 gallon
<i>Opuntia littoralis</i>	Coast prickly pear	1 gallon
<i>Yucca schideigera</i>	Spanish bayonette	1 gallon
<i>Diplacus puniceus</i>	Coast monkey flower	hydroseed mix
<i>Salvia mellifera</i>	Black sage	hydroseed mix
<i>Encelia californica</i>	California encilia	hydroseed mix
<i>Stipa pulchra</i>	Purple needle grass	plugs, hydroseed mix
<i>Lotus scoparius</i>	Deerwed	hydroseed mix
<i>Lupinus succulentus</i>	Lupine	hydroseed mix
<i>Eriophyllum confertiflorum</i>	Golden yarrow	hydroseed mix
<i>Adolphia californica</i>	California adolphia	liner, 1 gallon

Scrub Oak Chaparral

The following species are recommended as the major constituents for the plant palette for the scrub oak chaparral restoration plan.

Scientific Name	Common Name	Container Size
<i>Quercus dumosaa</i>	Nuttall's scrub oak	1 gallon
<i>Comarostaphylos diversifolia</i>	Summer holly	1 gallon
<i>Heteromeles arbutifolia</i>	Toyon	1 gallon
<i>Rhus integrifolia</i>	Lemonade berry	1 gallon
<i>Cercocarpus minutiflorus</i>	San Diego mountain mahogany	1 gallon

Riparian Wetland

The following species are recommended as the major constituents for the plant palette for the riparian wetland restoration plan. The species in this list occur in a variety of habitats from willow scrub to freshwater marsh. The acronyms in the last column refer to the habitats that these species should be used in. SWS = southern willow scrub; MFS = mulefat scrub; FWM = coastal and valley freshwater marsh.

Scientific Name	Common Name	Container Size	Habitat
<i>Juncus acutus ssp. leopoldii</i>	Southwestern spiny rush	liner	SWS, MFS, FWM
<i>Iva hayesiana</i>	San Diego marsh elder	hydroseed	SWS, MFS, FWM
<i>Artemisia palmeri</i>	Palmer's sagewort	hydroseed	SWS, MFS, FWM
<i>Baccharis salicifolia</i>	Mulefat	liner	SWS, MFS
<i>Salix lasiolepis</i>	Arroyo willow	liner	SWS, MFS
<i>Typha latifolia</i>	Soft flag	liner	SWS, MFS, FWM
<i>Scirpus acutus</i>	Viscid bulrush	liner	SWS, MFS, FWM
<i>Platanus racemosa</i>	California sycamore	1 gallon	SWS
<i>Populus fremontii</i>	Western cottonwood	1 gallon	SWS

Transition Areas

Transition areas outside of the Buffer and Habitat Protection areas are used for landscaped transitions to developed areas. Local, native vegetation should be used as much as possible; but introduced drought-tolerant species may also be acceptable. The plant species used should serve to provide a smooth visual and functional transition between the native buffer zone and landscaped areas. Transition areas should prevent detrimental animal and plant species from invading the buffer and habitat areas, and to additionally protect those areas from the impacts of lighting or noise. Transition areas shall not be planted with non-native species invasive to the habitat or buffer zones (City of San Diego 1992).

It is assumed that the transition areas will characteristically be upland areas, so the recommended planting palette will reflect an upland species composition.

Scientific Name	Common Name	Container Size
<i>Artemisia californica</i>	California sagebrush	liner, 1 gallon, hydroseed mix
<i>Eriogonum fasciculatum</i>	Flat-top buckwheat	liner, 1 gallon, hydroseed mix
<i>Heteromeles arbutifolia</i>	Toyon	1 gallon
<i>Malosma laurina</i>	Laurel sumac	1 gallon
<i>Quercus dumosa</i>	Nuttall's scrub oak	5 gallon
<i>Rhus integrifolia</i>	Lemonade berry	1 gallon
<i>Opuntia littoralis</i>	Coast prickly pear	1 gallon
<i>Yucca schideigera</i>	Spanish bayonette	1 gallon
<i>Diplacus puniceus</i>	Coast monkey flower	hydroseed mix
<i>Salvia mellifera</i>	Black sage	hydroseed mix
<i>Encelia californica</i>	California encelia	hydroseed mix
<i>Stipa pulchra</i>	Purple needle grass	hydroseed mix
<i>Lotus scoparius</i>	Deerweed	hydroseed mix
<i>Lupinus succulentus</i>	Lupine	hydroseed mix
<i>Eriophyllum confertiflorum</i>	Golden yarrow	hydroseed mix
<i>Ceanothus verrucosus</i>	White coast ceanothus	1 gallon
<i>Adolphia californica</i>	California adolphia	1 gallon

Fire resistant non-native species to be used in Zone 1 of fire management areas include:

Scientific Name	Common Name	Container Size
<i>Ceanothus griseus horizontalis</i>	Carmel creeper	1 gallon
<i>Cistus crispus</i>	Descanso rockrose	1 gallon
<i>Rosmarinus officinalis 'Prostratus'</i>	Prostrate rosemary	1 gallon
<i>Santolina virens</i>	Green lavender cotton	1 gallon
<i>Phyla nodiflora</i>	Lippia	1 gallon

Urban Amenities

Urban amenity area(s) provide for passive recreational activities. It is assumed that these areas will also be upland areas, and that there will be no impacts to wetlands from this amenity. As such, plants appropriate for the restoration of MSCP lands are appropriate for these areas. Additional tree species may be favored for the urban amenity area to enhance the aesthetic value. These species include:

Scientific Name	Common Name	Container Size
<i>Quercus agrifolia</i>	Coast live oak	5 gallon
<i>Quercus engelmannii</i>	Engelmann oak	5 gallon
<i>Platanus racemosa</i>	California sycamore	5 gallon
<i>Populus fremontii</i>	Western cottonwood	5 gallon
<i>Alnus rhombifolia</i>	White alder	5 gallon

2.3.4 Plant Materials

Plant materials for the restoration area shall include liner or 1 gallon size container stock of the targeted, dominant shrub species. Container stock shall have been in the container for no longer than one year prior to installation. Seeds of other species to be used shall be included in the hydroseed mix. Plant propagules shall be collected as close to the restoration site as possible. Any substitutions of either plant species or container sizes must be approved by the project biologist. The nursery that provides plant materials shall be contacted at least one year prior to initiation of restoration efforts. It is required that the planting material be inoculated with mycorrhizae to enhance the success potential of the project. Mycorrhizal associations increase host plant nutrient uptake, especially phosphorus, by increasing the surface area of the root system (Ted St. John pers. comm.). Disturbed soils which lack mycorrhizal fungi should be pre-inoculated with mycorrhizal plants for the specific purpose of providing mycorrhizal inoculum. Needlegrass (*stipa pulchra*) plugs planted at five feet on center spacing (1,725 per acre) are suggested to accomplish this.

2.3.5 Planting Arrangement

Spacing of the container stock shall reflect the density and spatial patterns of any similar, adjacent mature habitat. The placement of plants in a clumped distribution pattern increases the immigration of wind blown propagules over an even spacing of plants (Dr. E. Allen pers. comm.). The design of the placement of the container stock material shall be the responsibility of the landscape architect with input from the project biologist and be incorporated into the landscape design. The exact placement of the plants in the field is left to the discretion of the project biologist.

2.3.6 Planting Procedure

Standard planting procedures for the container stock are as follows:

1. Dig a hole twice the size of the rootball of the plant.
2. Fill the hole with water and allow to drain. Repeat.
3. Position the plant so that the surface of the soil in the container is approximately one-half to one inch above the surrounding soil to ensure that water does not collect around the root crown leading to root crown rot.
4. Backfill the hole with excavated topsoil but do not compact the soil.

The hydro seeding mixture shall consist of seeds and mulch and shall be applied until the soil surface is uniformly covered.

2.3.7 Timing of Plant Installation

Planting and hydroseeding should occur between December 1 and February 1 to ensure the best survival rates and minimize the need for supplemental watering. If slope stabilization is necessary prior to these dates, materials such as jute matting should be used rather than adjusting planting dates. Seasonal rainfall serves to augment periodic irrigation and provides additional water resources during the critical period of establishment.

2.3.8 Irrigation Requirements

The goal of any restoration plan is to create a functional plant community capable of maintaining and supporting itself. Irrigation is discouraged for upland areas where it promotes conditions that favor weeds at the detriment of the native species. If a temporary irrigation system is needed, it should be designed to function for at least two years and then be discontinued. Traditionally, restoration programs have required an irrigation program that is active into and through the summer. There is recent debate that suggests summer irrigation of species that normally enter a dormant or semi-dormant

phase during the summer may be detrimental. A summer irrigation program would force these species to be physiologically active during a period of traditional dormancy (Ted St. John pers. comm.). The decision on whether to continue irrigation into the summer will be the responsibility of the project biologist with input from the landscape contractor.

A drip system shall be employed for the container stock and possibly any hydroseed areas that may require supplemental irrigation. Overhead irrigation systems should be discouraged on any upland areas because of the potential for increased runoff and erosion. Irrigation application shall be such as to ensure deep watering to promote deep root growth.

2.3.9 Replacement Planting

The restoration site will be inspected at the conclusion of the installation phase. Ninety days following this inspection, the project will be examined for hydroseed germination and container stock viability. Container stock that has not survived should be replaced. Eroded areas should be repaired and reseeded. Hydroseed areas larger than 25 square feet that show no significant germination should be re-hydroseeded or hand-seeded. Seeds in the hand-reseeded areas should be raked-in.

In late fall, following the first rains, the plants should again be checked for viability. If more than 10 percent of the original planted container stock has not survived, all the dead plant material should be removed and replaced with the same size material as was planted originally. Any deviation from the original material, either size or species should be the decision of the project biologist. Replacement plantings should be done in November or December. Replanting and rehydroseeding will be the responsibility of the landscape contractor.

3.0 MANAGEMENT PLAN

The purpose of the management plan is to provide guidelines for the maintenance of the revegetated habitat. Because the goal of the restoration plan is to create a natural self-sustaining ecosystem that can support itself with no maintenance, the primary effort of the maintenance plan is concentrated in the first few seasons of growth. The following maintenance and monitoring is based on a five-year plan.

3.1 Maintenance

1. Irrigation should be checked twice monthly. The revegetated areas shall be sprayed and drip irrigated at the direction of the project biologist. Irrigation should last for a minimum of two years and shall be removed only at the direction of the project biologist.
2. The site should not be fertilized during the maintenance period. Pesticides and herbicides shall not be used unless at the direction of the project biologist.

3. The revegetated area should not be pruned during the maintenance period.
4. Weedy, non-native species that invade the restoration areas should be hand removed when they reach six inches in size, and prior to creating any problems for the recently installed species. Potential problems include competition for water, space, or light.

3.2 Monitoring

The restoration effort should be assessed in early fall following the first summer after planting to determine survival rates, success of hydroseeding and the functioning of the irrigation system. The number, size, and species of dead plants should be recorded, along with percent cover. Success standards are outlined below.

Year 1

- 80 percent survival of all container plantings
- Shrub cover of between 20 and 30 percent
- A combined (native) shrub/herbaceous cover of between 25 and 40 percent
- Herbaceous (natives) cover of between five and ten percent

Year 2

- 75 percent survival of shrub planting
- Shrub cover of between 30 and 50 percent
- A combined (native) shrub/herbaceous cover of between 35 and 60 percent
- Herbaceous (natives) cover of between five and ten percent

Year 3

- 70 percent survival of shrub plantings
- Shrub cover of between 50 and 70 percent
- A combined (native) shrub/herbaceous cover of between 55 and 80 percent
- Herbaceous (natives) cover of between five and ten percent
- Height standards met for all shrubs (see below)

Years 4-5

- Shrub cover of between 60 and 80 percent
- A combined (native) shrub/herbaceous cover of between 65 and 90 percent
- Herbaceous (natives) cover of between five and ten percent
- Height standards met for all shrubs (see below)

Shrub Height Standards	Year 3	Year 4	Year 5
Toyon (1-gal.)	2-4 ft.	4-6 ft.	8 ft.
Lemonade berry (1-gal.)	2-3 ft.	3-4 ft.	5 ft.
Coastal prickly pear (1-gal.)	1-2 ft.	2-3 ft.	4 ft.
Red bush monkeyflower	0.5-1 ft.	1-2 ft.	3 ft.
California sagebrush (1-gal.)	0.5-1 ft.	1-2 ft.	3 ft.
Bladderpod (1-gal.)	0.5-1 ft.	1-2 ft.	3 ft.

In addition to vegetation requirements, the following wildlife use criteria will be met during the fifth year.

- Used as foraging habitat by at least ten bird species
- Part of nesting/breeding use area by at least five bird species
- Functions as part of a wildlife movement area. This will be measured by the presence of large mammal sign (scat or tracks), the presence of identifiable movement trails, or the actual visual sighting of large mammal use.

Bird use will be determined based on standard spot mapping or transect survey techniques. Evidence of breeding on site shall include the observation of actual nests, observation of courtship behaviors (male feeding female etc.), nest-building behavior (bird carrying nesting materials etc.), or the observation of fledglings/family groups using the site.

The restoration area shall be reviewed both qualitatively and quantitatively to assure the success. Qualitative assessments shall be made each spring following initial planting over the five-year monitoring period. During this visit, visual estimations of percent cover, survivorship and height shall be made. In addition, periodic inspections to assess the overall progress of the revegetated area shall be made monthly during the first 90, 120, and 150 days and twice a year thereafter over the five-year monitoring period.

Quantitative assessments of the vegetation shall be made each fall during the five-year monitoring period and consist of statistical analysis of percent cover, survivorship and height. In addition, a quantitative assessment of wildlife usage shall be conducted each spring. Photographic documentation of the restoration site should be completed and a report outlining the result of the monitoring activities shall be submitted to the City of San Diego Planning Department by December 1 of each year of monitoring.

The monitoring reports should describe the existing conditions of the site including photographs, identify the shortcomings of the restoration plan and recommend remedial measures necessary for the successful completion of the restoration project. On large restoration sites, aerial photographs may provide a more accurate documentation of the success of the program.

If coverage standards are not met by the end of the initial five-year monitoring program, maintenance and monitoring should continue until the standards are met for three additional years, or until the standards are met, whichever occurs first.

The U.S. Fish and Wildlife Service and/or other resource agency(s) may terminate monitoring earlier than five years if it is recommended first by the monitoring biologist in a year-end report. Likewise, if at the end of five years, any of the revegetated areas fail to meet the year five standards, then the monitoring and maintenance period will be extended one full additional year and a specific set of remedial measures (approved by the City and resource agencies) will be implemented. Only areas which fail to meet the success standards will require remedial work. This process will continue until all five year standards are met or until the resource agency(s) determine that other mitigation measures are appropriate.

Monitoring Reports

Upon completion of the mitigation installation, the restoration biologist and landscape architect shall prepare a letter report indicating that the installation is finished and that the five-year monitoring period has begun. At three, six and nine months, a brief horticultural monitoring report shall be made indicating initial project progress. At one year and thereafter, reports shall be made once annually. The annual reports shall include both botanical and horticultural observations. Any remedial recommendations shall also be made in the annual reports and will be responded to in writing within five (5) working days of receipt of the monitoring report. A summary of whether the project is meeting the success standards shall be included.

Copies of all monitoring reports will be sent to the City, U.S. Fish and Wildlife Service, and California Department of Fish and Game if required.

Remedial Measures

The various remedial measures that may be required are partly defined here, and will be left to the discretion of the project biologist. These remedial measures may include, but are not limited to the following:

- Increase or decrease the irrigation or change its frequency to improve growth.
- Modify the irrigation system to compensate for changes in plant growth or to correct problems that develop.
- Clear a vegetation-free zone and mulch around container stock to reduce competition and speed growth.
- Control weeds and other pests to reduce competition and improve vigor. (Note: specific pest control recommendations require a Pest Control Advisor's License.)
- Make additional plantings and/or substitute species to meet success standards.
- Replant dead and/or poorly growing container plants.
- Selective pruning to improve sprinkler coverage, induce lateral plant growth, favor the growth of one species over another, etc.

3.3 Passive Restoration

Passive restoration can take many forms and these will depend on the timing requirements and fiscal constraints. In general, passive restoration will take longer to reach the above success criteria because it does not rely on container stock or irrigation. The ultimate function and value of the passive restoration, however, would be equivalent to that of the active restoration. Conceptually, passive restoration is anything short of the above-described active restoration. Enhanced passive restoration could be seeding with native species, coastal sage soil and duff salvage and reapplication, controlled burns, etc. or a combination thereof. The approach; however, must do no harm to the current environment.

3.4 Final Resolution

If the project meets all success criteria at the end of the five-year monitoring period, mitigation will be considered a success. The maintenance and monitoring program shall be extended for one full year at a time until the standards are met, or until an alternative agreement is negotiated with the resource agency(s) if appropriate. While the goal is to create suitable habitat for the coastal California gnatcatcher, its presence and/or breeding within the restoration/revegetation/enhancement sites shall not be a factor in determining success of the revegetation effort. Numbers of gnatcatchers occupying on-site habitat will be noted each year, but no specific monitoring is required during the first five-year monitoring period.

Should the mitigation effort meet all goals prior to the end of the five-year monitoring period, the U.S. Fish and Wildlife Service and/or other resource agency(s) may terminate the monitoring period prematurely if all parties agree.

Passive restoration areas will be considered a success when they meet the same success criteria for coverage, percent composition, and shrub height standards as outlined for active restoration efforts. Passive restoration efforts will not be required to conduct any maintenance or monitoring efforts because the work is being proposed to be completed to any impacts occurring.