



THE CITY OF SAN DIEGO

Date of Notice: February 26, 2020

PUBLIC NOTICE FOR PREPARATION OF A SUBSEQUENT ENVIRONMENTAL IMPACT REPORT AND SCOPING MEETING

DEVELOPMENT SERVICES DEPARTMENT

SAP No. 24007991

Public Notice: The City of San Diego as the Lead Agency has determined that the project described below will require the preparation of an Subsequent Environmental Impact Report (SEIR) in compliance with the California Environmental Quality Act (CEQA). This Notice of Preparation of a SEIR and Scoping Meeting was publicly noticed and distributed on May 4, 2018. This notice was published in the SAN DIEGO DAILY TRANSCRIPT and placed on the City of San Diego website at: <https://www.sandiego.gov/ceqa/draft> under the "California Environmental Quality Act (CEQA) Notices & Documents" section. In addition, the Public Notice was also distributed to the Central Library as well as the Otay-Nestor and San Ysidro Branch Libraries.

Scoping Meeting: A public scoping meeting will be held by the City of San Diego's Development Services Department on **March 4, 2020, beginning at 5:30 PM and running no later than 7:30 PM at the San Ysidro High School, located at 5353 Airway Road, San Diego, CA 92154. Please note that depending on the number of attendees, the meeting could end earlier than 8:30 PM.** Verbal and written comments regarding the scope and alternatives of the proposed SEIR will be accepted at the meeting.

Written comments may be sent to the following address: **E. Shearer-Nguyen, Environmental Planner, City of San Diego Development Services Department, 1222 First Avenue, MS 501, San Diego, CA 92101** or submitted via e-mail to DSDEAS@sandiego.gov with the Project Name and Number in the subject line within 30 days of the receipt of this notice. Responsible agencies are requested to indicate their statutory responsibilities in connection with this project when responding. An SEIR incorporating public input will then be prepared and distributed for the public to review and comment.

General Project Information:

- **Project Name / Number:** Southwest Village / 614791
- **Community Area:** Otay Mesa
- **Council District:** 8

Description: The Southwest Village Specific Plan (Specific Plan) provides a comprehensive policy framework intended to guide future development in Southwest Village, consistent with the Otay Mesa Community Plan (OMCP) and City of Villages Strategy. The Specific Plan encompasses approximately 490 acres, will allow up to 5,130 attached and detached residences, and will facilitate creation of a new village anchored by up to 175,000 square feet of commercial and retail uses in a mixed-use Village Core. The Specific Plan would include dedication a new

elementary school site, developed parks, trails, natural open space, and habitat conservation. Access to the Specific Plan area will be from Caliente Avenue to the north and from an extension of Beyer Boulevard, connecting the Specific Plan area to San Ysidro. Additionally, a Vesting Tentative Map (VTM), Site Development Permit, and Multi-Habitat Planning Area (MHPA) Boundary Line Adjustment is requested in order to develop approximately 74 acres within Planning Areas 8 through 14 to implement approximately 830 residential units within the Specific Plan. Concurrent with implementation of the VTM, Beyer Boulevard will be graded to its full width and improved as a two-lane road with bicycle facilities. **The site is not included on any Government Code listing of hazardous waste sites.**

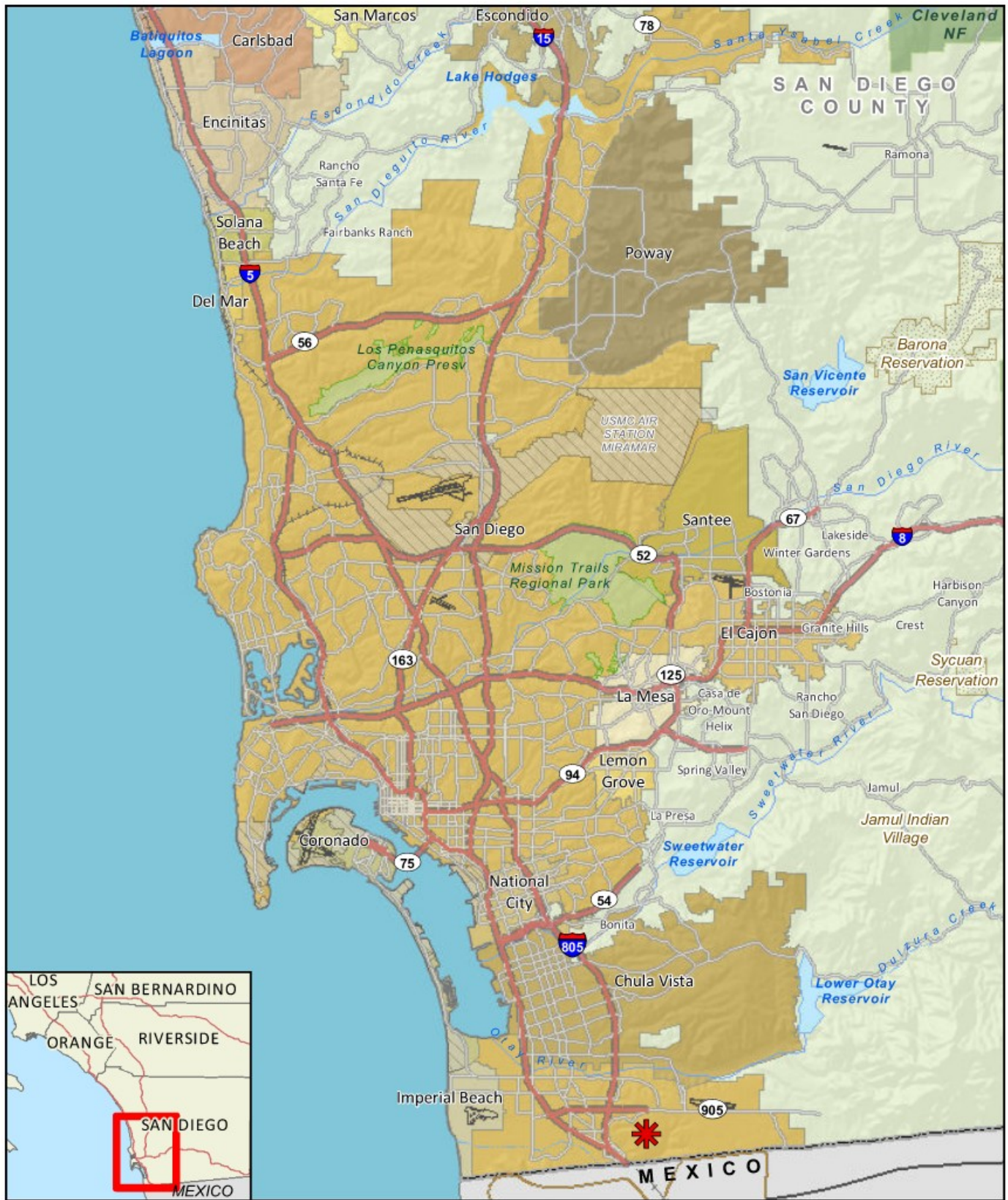
Applicant: Pardee Homes

Recommended Finding: Pursuant to Section 15060(d) of the CEQA Guidelines, it appears that the proposed project may result in significant environmental impacts in the following areas: **Land Use, Visual Effects/Neighborhood Character, Air Quality and Odor, Biological Resources, Historical Resources, Human Health/Public Safety/Hazardous Materials, Hydrology/Water Quality, Geology/Soils, Energy Conservation, Noise, Paleontological Resources, Traffic/Circulation, Public Services and Facilities, Utilities, Water Supply, Population and Housing, Agricultural and Mineral Resources, and Greenhouse Gas Emissions.**

Availability in Alternative Format: To request this Notice or any additional information in an alternative format, call the Development Services Department at (619) 446-5460 (800) 735-2929 (TEXT TELEPHONE).

Additional Information: For environmental review information, contact Elizabeth Shearer-Nguyen at (619) 446-5369. The Scoping Letter and supporting documents may be reviewed, or purchased for the cost of reproduction, at the Fifth floor of the Development Services Department. **For information regarding public meetings/hearings on this project, contact the Project Manager, Jeffrey A. Peterson at (619) 446-5237.** This notice was published in the SAN DIEGO DAILY TRANSCRIPT and distributed on February 26, 2020.

ATTACHMENTS: Distribution List: Contact the Development Services Department
Figure 1: Regional Map
Figure 2: Project Location and Aerial Photograph
Figure 3: Specific Plan Land Uses
Figure 4: Vesting Tentative Map Site Plan




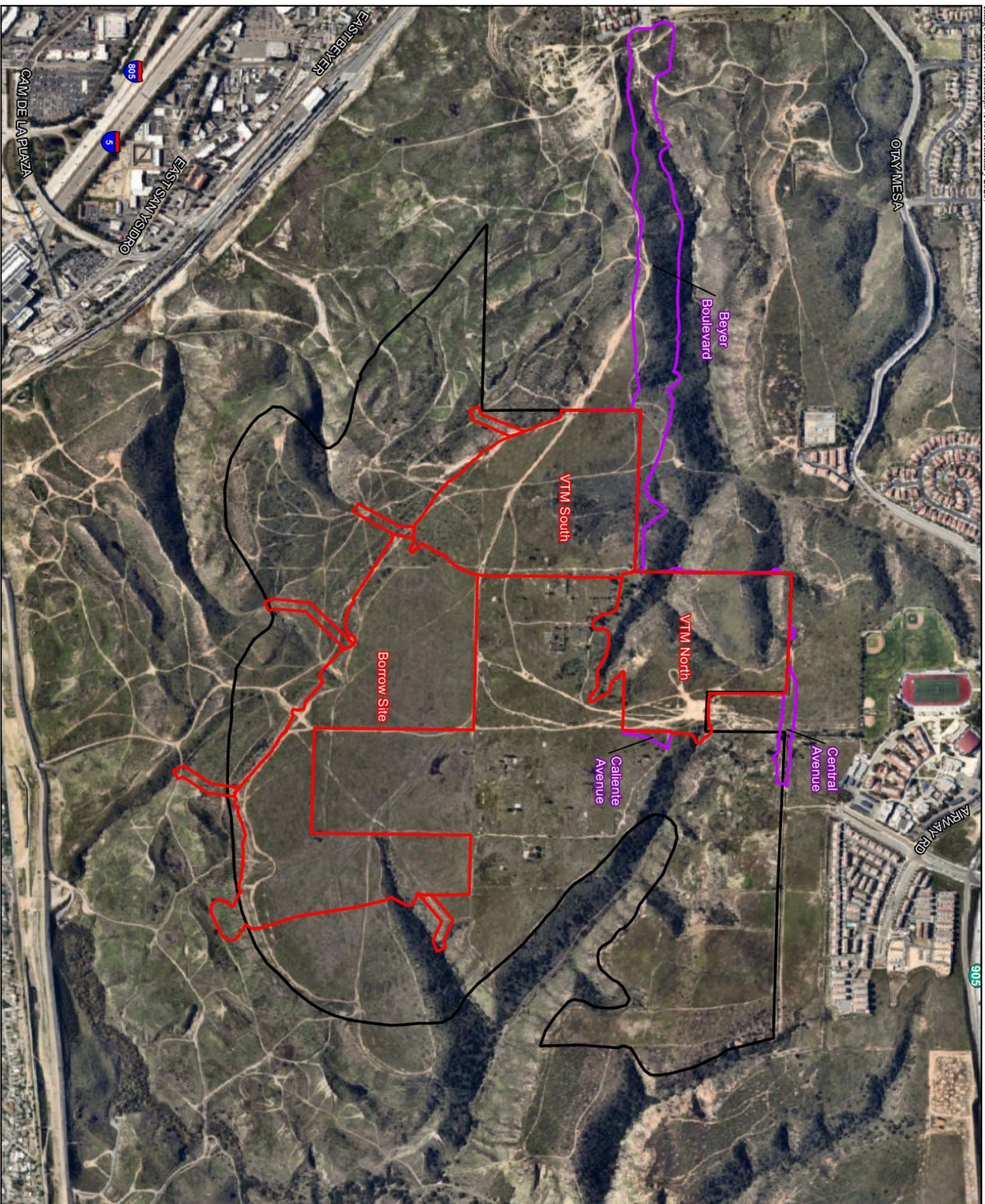
 Project Location

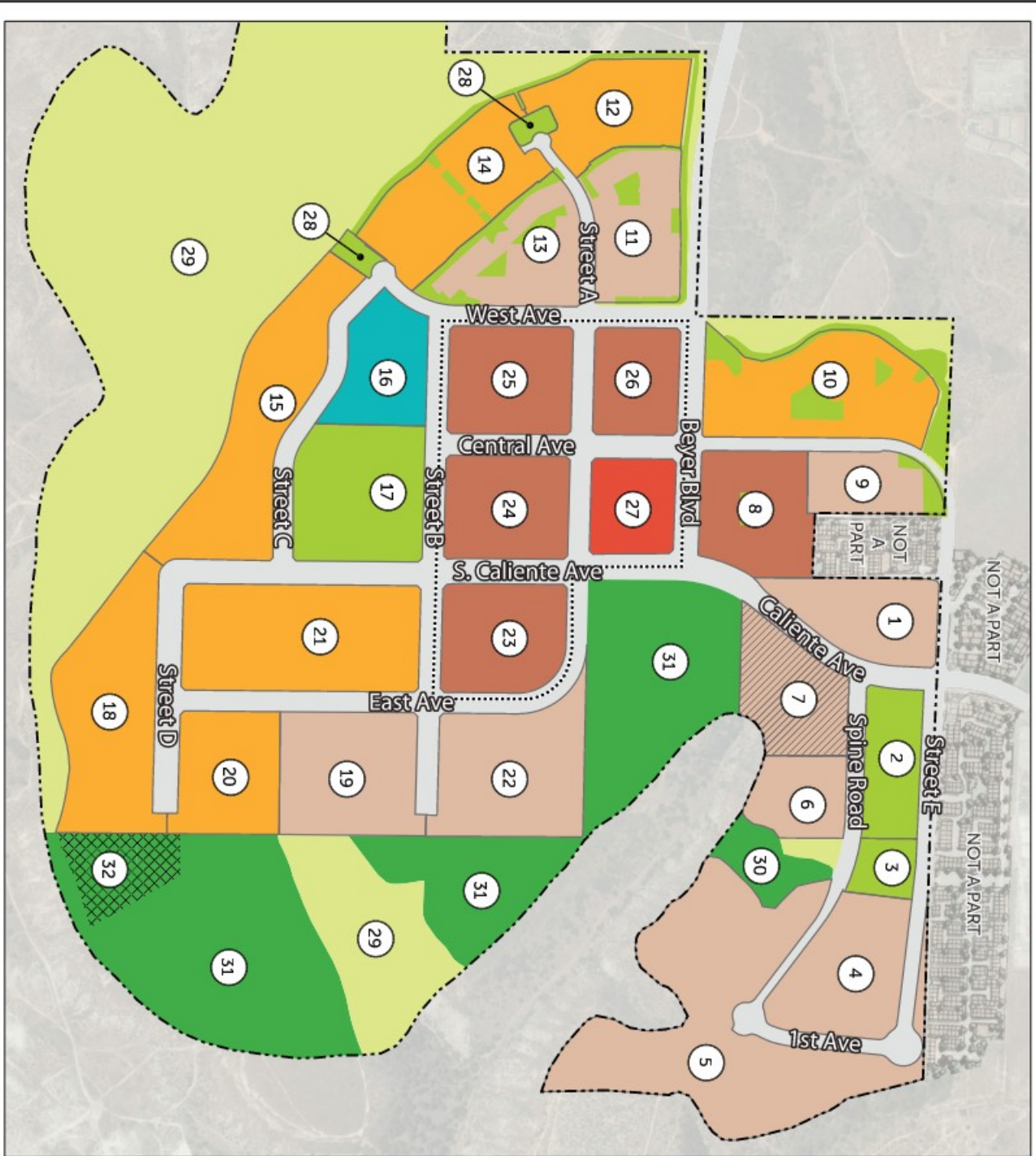
FIGURE 1
Regional Location



- Project Site
- Off-site Improvements
- Specific Plan Boundary



FIGURE 2
Project Location on Aerial Photograph



LEGEND

- Specific Plan Boundary
- Village Core
- # Planning Area
- Mixed-Use
20-44 du/ac
- Medium-High
20-44 du/ac
- Medium
15-29 du/ac
- Medium-Low
8-22 du/ac
- School
- Parks
- General Open Space
Landslide hazard area, slopes, brush management zones, and basins.
- Conserved Open Space
MHPA / VPHCP
- School Overlay
- Pump Station Overlay

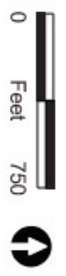
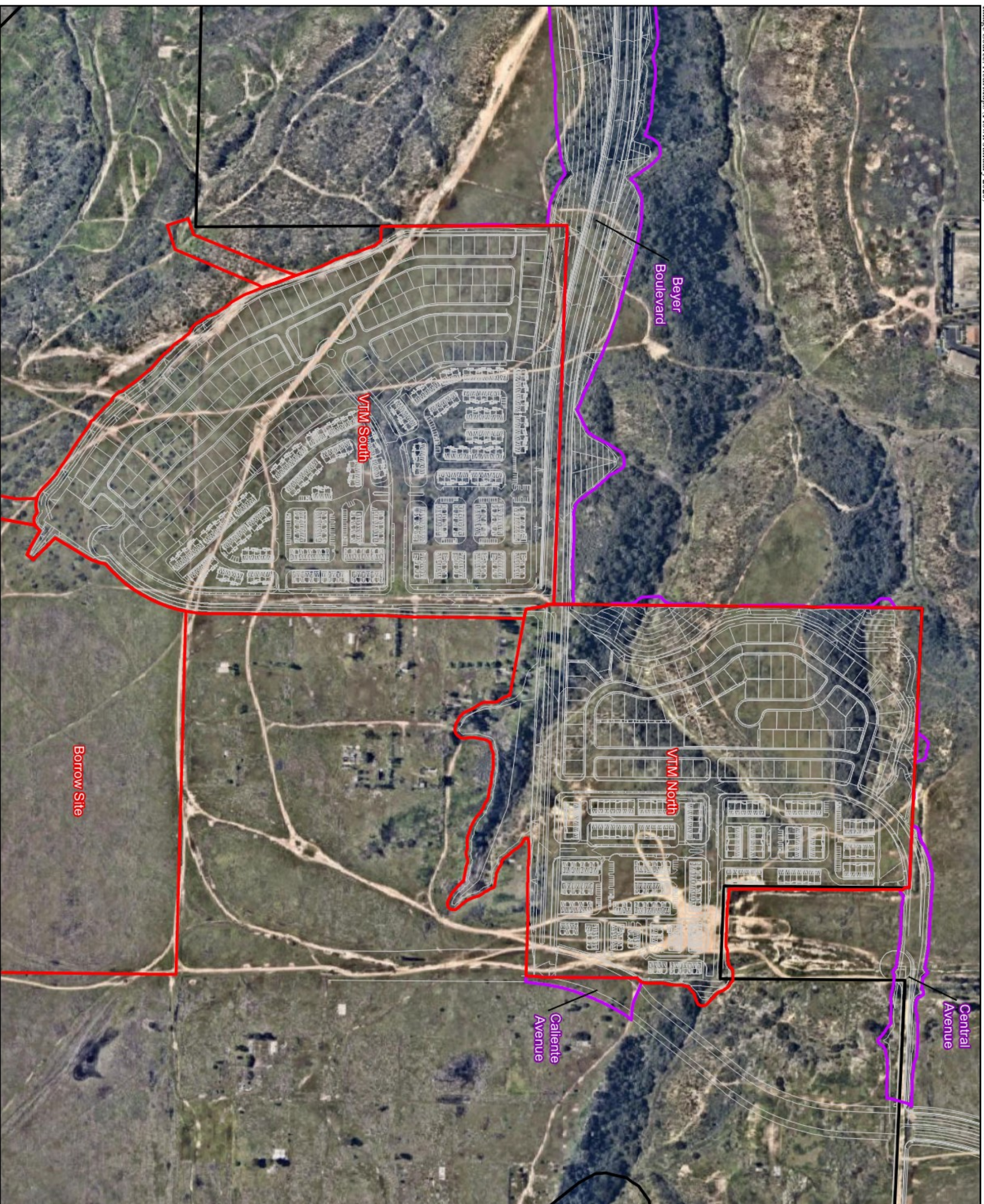


FIGURE 3
Specific Plan Land Uses

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- ▭ Project Site
- ▭ Off-site Improvements
- Specific Plan Boundary
- Site Plan



FIGURE 4
VTM Site Plan

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P. O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH # 2004651076

Project Title: Southwest Village Specific Plan

Lead Agency: City of San Diego Contact Person: Elizabeth Shearer-Nguyen
Mailing Address: 1222 First Avenue, MS 501 Phone: (619) 446-5369
City: San Diego, CA Zip: 92101 County: San Diego

Project Location: County: San Diego City/Nearest Community: City of San Diego/Otay Mesa

Cross Streets: Caliente Avenue Zip Code: 92154

Lat. / Long.: 32.762975, -117.169177 Total Acres: approx. 490 acres

Assessor's Parcel No.: _____ Section: _____ Twp.: _____ Range: _____ Base _____

Within 2 Miles: State Hwy #: I805/I5/SR905 Waterways: _____

Airports: Brown Field Railways: _____ Schools: _____

Document Type:

CEQA: NOP Draft EIR NEPA: NOI Other: Joint Document
 Early Cons Supplement/Subsequent EIR EA Final Document
 Neg Dec (Prior SCH No.) _____ Draft EIS Other _____
 Mit Neg Dec Other _____ FONSI

Local Action Type:

General Plan Update Specific Plan Rezone Annexation
 General Plan Amendment Master Plan Prezone Redevelopment
 General Plan Element Planned Unit Development Use Permit Coastal Permit
 Community Plan Site Plan Land Division (Subdivision, etc.) Other: Vesting
Tentative Map, Site Development Permit, MHPA BLA

Development Type:

Residential: Units 5,130 Acres _____ Water Facilities: Type _____ MGD _____
 Office: Sq.ft. _____ Acres _____ Employees _____ Transportation: Type _____
 Commercial: Sq.ft. 175,000 Acres _____ Employees _____ Mining: Mineral _____
 Industrial: Sq.ft. _____ Acres _____ Employees _____ Power: Type FEB 26 2020 MW _____
 Educational _____ Waste Treatment: Type _____ MGD _____
 Recreational _____ Hazardous Waste: Type _____
 Other: _____

Project Issues Discussed in Document:

Aesthetic/Visual Fiscal Recreation/Parks Vegetation
 Agricultural Land Flood Plain/Flooding Schools/Universities Water Quality
 Air Quality Forest Land/Fire Hazard Septic Systems Water Supply/Groundwater
 Archeological/Historical Geologic/Seismic Sewer Capacity Wetland/Riparian
 Biological Resources Minerals Soil Erosion/Compaction/Grading Wildlife
 Coastal Zone Noise Solid Waste Growth Inducing
 Drainage/Absorption Population/Housing Balance Toxic/Hazardous Land Use
 Economic/Jobs Public Services/Facilities Traffic/Circulation Cumulative Effects
 Other _____

Present Land Use/Zoning/General Plan Designation: See attached Public Notice / Project Description

Project Description: (please use a separate page if necessary) See attached Public Notice / Project Description

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with an "X".
 If you have already sent your document to the agency please denote that with an "S".

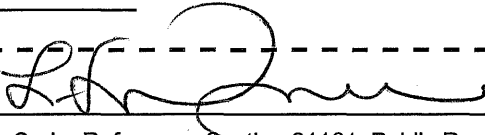
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|---|---|
| <input type="checkbox"/> Air Resources Board | <input type="checkbox"/> Office of Emergency Services |
| <input type="checkbox"/> Boating & Waterways, Department of | <input type="checkbox"/> Office of Historic Preservation |
| <input type="checkbox"/> California Highway Patrol | <input type="checkbox"/> Office of Public School Construction |
| <input type="checkbox"/> CalFire | <input type="checkbox"/> Parks & Recreation |
| <input type="checkbox"/> Caltrans District # <u>11</u> | <input type="checkbox"/> Pesticide Regulation, Department of |
| <input type="checkbox"/> Caltrans Division of Aeronautics | <input type="checkbox"/> Public Utilities Commission |
| <input type="checkbox"/> Caltrans Planning (Headquarters) | <input type="checkbox"/> Regional WQCB # _____ |
| <input type="checkbox"/> Central Valley Flood Protection Board | <input type="checkbox"/> Resources Agency |
| <input type="checkbox"/> Coachella Valley Mountains Conservancy | <input type="checkbox"/> S.F. Bay Conservation & Development Commission |
| <input type="checkbox"/> Coastal Commission | <input type="checkbox"/> San Gabriel & Lower L.A. Rivers and Mtns Conservancy |
| <input type="checkbox"/> Colorado River Board | <input type="checkbox"/> San Joaquin River Conservancy |
| <input type="checkbox"/> Conservation, Department of | <input type="checkbox"/> Santa Monica Mountains Conservancy |
| <input type="checkbox"/> Corrections, Department of | <input type="checkbox"/> State Lands Commission |
| <input type="checkbox"/> Delta Protection Commission | <input type="checkbox"/> SWRCB: Clean Water Grants |
| <input type="checkbox"/> Education, Department of | <input type="checkbox"/> SWRCB: Water Quality |
| <input type="checkbox"/> Energy Commission | <input type="checkbox"/> SWRCB: Water Rights |
| <input type="checkbox"/> Fish & Game Region # _____ | <input type="checkbox"/> Tahoe Regional Planning Agency |
| <input type="checkbox"/> Food & Agriculture, Department of | <input type="checkbox"/> Toxic Substances Control, Department of |
| <input type="checkbox"/> General Services, Department of | <input type="checkbox"/> Water Resources, Department of |
| <input type="checkbox"/> Health Services, Department of | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Housing & Community Development | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Integrated Waste Management Board | |
| <input type="checkbox"/> Native American Heritage Commission | |

Local Public Review Period (to be filled in by lead agency)

Starting Date February 26, 2020 Ending Date March 26, 2020

Lead Agency (Complete if applicable):

Consulting Firm: _____	Applicant: _____
Address: _____	Address: _____
City/State/Zip: _____	City/State/Zip: _____
Contact: _____	_____
Phone: _____	

Signature of Lead Agency Representative:  Date: Feb. 25, 2020

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



March 26, 2020

Governor's Office of Planning & Research

MAR 26 2020

STATE CLEARINGHOUSE

Elizabeth Shearer-Nguyen
City of San Diego
1222 First Ave, MS 501
San Diego, CA 92101

Subject: Southwest Village Specific Plan (Project) Notice of Preparation (NOP) of a Supplemental Environmental Impact Report (SEIR) SCH# 2004051076

Dear Ms. Shearer-Nguyen:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a SEIR from the City of San Diego (City) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW previously submitted comments in response the Otay Mesa Community Plan Update (CPU), under which the Southwest Village Specific Plan is nested, in a joint letter with the U.S. Fish and Wildlife Service (Service) in 2006, and again in response to the Final Program Environmental Impact Report in 2013.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources, and holds those resources in trust by statute for all the people of the state. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Pardee Homes

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Objective: The objective of the Southwest Village Specific Plan (Specific Plan) is to provide a comprehensive policy framework intended to guide future development in Southwest Village. The Project will build a 450-acre development anchored by up to 175,000 square feet of commercial and retail space in a mixed-use Village Core. Primary Project activities include planning for the 5,130 attached and detached residences

Location: The Project is near Caliente Avenue within the Otay Mesa Planning Area, zip code 92154.

Biological Setting:

There are 15 vegetation community types present in the Otay Mesa Community Planning Update (CPU) area, these include: non-native grasslands (2,429 acres), Diegan coastal sage scrub (1,619 acres), disturbed land (673 acres), maritime succulent scrub (541 acres), agriculture (113 acres), riparian (24 acres), vernal pools (12 acres), basins with fairy shrimp (12 acres), mule fat scrub (5 acres), southern mixed chaparral (5 acres), freshwater marsh (1 acre), eucalyptus woodland (1 acre), and alkali seep (0.5 acre). Several of these vegetation types are occupied by listed and MSCP-covered species, such as the San Diego thornmint (*Acanthomintha ilicifolia*; California Endangered Species Act (CESA) listed endangered and federal Endangered Species Act (ESA) listed threatened; California Rare Plant Rank (CRPR) 1B.1), San Diego ambrosia (*Ambrosia pumila*; federal listed threatened; CRPR 1B.1), San Diego goldenstar (*Bloomeria clevelandii*; CRPR 1B.1), Orcutt's brodiaea (*Brodiaea orcuttii*; CRPR 1B.1), snake cholla (*Cylindropuntia californica*; CRPR 1B.1), Otay tarplant (*Deinandra conjugens*; ESA listed threatened and CESA listed endangered; CRPR 1B.1), Orcutt's bird's-beak (*Dicranostegia orcuttiana*; CRPR 2B.1), variegated dudleya (*Dudleya variegata*; CRPR 1B.2), San Diego button-celery (*Eryngium aristulatum* var. *parishii*; ESA listed endangered and CESA listed endangered; CRPR 1B.1), San Diego barrel cactus (*Ferocactus viridescens*; CRPR 2B.1), spreading navarretia (*Navarretia fossalis*; ESA listed threatened; CRPR 1B.1), California Orcutt grass (*Orcuttia californica* var. *californica*; ESA listed endangered and CESA listed endangered; CRPR 1B.1), Otay Mesa mint (*Pogogyne nudiuscula*; ESA listed endangered and CESA listed endangered; CRPR 1B.1), and small-leaved rose (*Rosa minutifolia*; CESA listed endangered; CRPR 2B.1). Wildlife species include: San Diego fairy shrimp (*Branchinecta sandiegonensis*; ESA listed endangered), Riverside fairy shrimp (*Streptocephalus wootoni*; ESA listed endangered), Quino checkerspot butterfly (*Euphydryas editha quino*; ESA listed endangered), western spadefoot (*Spea hammondi*; California Species of Special Concern (SSC)), Belding's orange-throated whiptail (*Aspidoscelis hyperythra*; SSC), Coronado skink (*Plestiodon skiltonianus interparietalis*; SSC), San Diego horned lizard (*Phrynosoma blainvillii*; SSC), red diamond rattlesnake (*Crotalus ruber*; SSC), two-striped gartersnake (*Thamnophis hammondi*; SSC), white tailed kite (*Elanus leucurus*; California Watch List and California Fully Protected Species (FPS)), northern harrier (*Circus hudsonius*; SSC), Cooper's hawk (*Accipiter cooperii*; California Watch List), golden eagle (*Aquila chrysaetos*; FPS;), prairie falcon (*Falco mexicanus*, California Watch List), western burrowing owl (*Athene cunicularia*; SSC), loggerhead shrike (*Lanius ludovicianus*; SSC), least Bell's vireo (*Vireo bellii pusillus*; ESA and CESA listed endangered), California horned lark (*Eremophila alpestris*; California Watch List), coastal cactus wren (*Campylorhynchus brunneicapillus*; SSC), coastal California gnatcatcher (*Polioptila californica californica*; ESA listed threatened, SSC), yellow-breasted chat (*Icteria virens*; SSC), southern California rufous-crowned sparrow (*Aimophila ruficeps*; California Watch List), grasshopper sparrow (*Ammodramus savannarum*; SSC), San Diego black-tailed jackrabbit (*Lepus californicus bennettii*; SSC), northwestern San Diego pocket mouse (*Chaetodipus fallax fallax*; SSC), and San Diego desert woodrat (*Neotoma lepida intermedia*; SSC).

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the potential for the Project to have a significant impact on biological resources, CDFW concludes that a SEIR is appropriate for the Project.

Comments and recommendations provided here are based on the Final EIR (Project No. 30330/304032 / SCH No. 2004051076), since no Initial Study or Biological Technical Report has been conducted for the Southwest Village Specific Plan (Specific Plan). The City recommends that, pursuant to Section 15060(d) of the CEQA Guidelines, a SEIR be prepared, since the proposed Project may result in significant environmental impacts to biological resources.

I. Project Description and Related Impact Shortcoming

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?

COMMENT #1: Impacts to unique, rare, endangered, sensitive, or fully protected species would occur with implementation of the Specific Plan. Impacts due to project activities would be considered significant and could be mitigated at the project level in accordance with Environmentally Sensitive Lands Regulations and the City's Biology Guidelines. When possible, CDFW recommends assessment of biological resources (plant and animal) by direct surveys within the proposed Project site.

II. Environmental Setting and Related Impact Shortcoming

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?

COMMENT #2: CDFW has responsibility for wetland and riparian habitats. It is the policy of the CDFW to strongly discourage development in wetlands or conversion of wetlands to uplands. We oppose any development or conversion that would result in a reduction of wetland acreage or wetland habitat values, unless, at a minimum, project mitigation assures there will be "no net loss" of either wetland habitat values or acreage. Development and conversion include but are not limited to conversion to subsurface drains, placement of fill or building of structures within the wetland, and channelization or removal of materials from the streambed. All wetlands and watercourses, whether ephemeral, intermittent, or perennial, should be retained and provided with substantial setbacks that preserve the riparian and aquatic values and maintain their value to on-site and off-site wildlife populations. Mitigation measures to compensate for impacts to mature riparian corridors must be included in the SEIR and must compensate for the loss of function and value of a wildlife corridor.

- a. The project area supports aquatic, riparian, and wetland habitats; therefore, a jurisdictional delineation of the creeks and their associated riparian habitats should be

included in the SEIR. The delineation should be conducted pursuant to the U.S. Fish and Wildlife Service wetland definition adopted by CDFW.² Please note that some wetland and riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers.

The CDFW also has regulatory authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, the CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. CDFW's issuance of a LSAA for a project that is subject to CEQA will require CEQA compliance actions by the CDFW as a Responsible Agency. CDFW, as a Responsible Agency under CEQA may consider the local jurisdiction's (lead agency) Negative Declaration or Environmental Impact Report for the project. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSAA.³

Would the Project interfere substantially with movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede use of native wildlife nursery sites?

COMMENT #3: CDFW recommends that the City conduct direct surveys of the biological resources within the Project site and produce a biological survey report that identifies any direct or indirect impacts to wildlife, including impacts to wildlife movement or habitat corridors according to CEQA Guideline 276, the City's Biology Guidelines (2012), and the MSCP Subarea Plan's General Planning Policies and Design Guidelines (1997) aimed at protecting the integrity of the wildlife corridors.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB).

² Cowardin, Lewis M., et al. 1979. Classification of Wetlands and Deepwater Habitats of the United States. U.S. Department of the Interior, Fish and Wildlife Service.

³ A notification package may be obtained by accessing the Department's web site at <http://www.wildlife.ca.gov/Conservation/LSA>

The CNNDDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

FILING FEES


The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Nasseer Idrisi, Senior Environmental Scientist at (858) 467-2720 or Nasseer.Idrisi@wildlife.ca.gov.

Sincerely,



David Mayer
Acting Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento

DEPARTMENT OF TRANSPORTATION

DISTRICT 11
4050 TAYLOR STREET, MS-240
SAN DIEGO, CA 92110
PHONE (619) 688-3137
FAX (619) 688-4299
TTY 711
www.dot.ca.gov



*Making Conservation
a California Way of Life.*

Governor's Office of Planning & Research

MAR 26 2020

STATE CLEARINGHOUSE

March 26, 2020

11-SD-VAR, I-805, SR-905
NOP Southwest Village Specific Plan
SCH# 2004051076

Ms. Elizabeth Shearer-Nguyen
Environmental Planner
Development Services Department
1222 First Avenue, MS 501,
City of San Diego, CA 92101.

Dear Ms. Shearer-Nguyen:

Thank you for including the California Department of Transportation (Caltrans) in the review process for the Southwest Village Specific Plan project located near Interstate 805 and State Route (SR-905). The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. The Local Development-Intergovernmental Review (LD-IGR) Program reviews land use projects and plans to ensure consistency with Caltrans' mission and state planning priorities.

Caltrans has the following comments:

Traffic

- A Vehicle Miles of Travel (VMT) based Traffic Impact Study (TIS) should be provided for this project. Please use the Governor's Office of Planning and Research Guidance¹ to identify VMT related impacts.
- The TIS may also need to identify the proposed project's near-term and long-term safety or operational issues, on or adjacent any existing or proposed State facilities.

¹ California Governor's Office of Planning and Research (OPR) 2018.
"Technical Advisory on Evaluating Transportation Impacts in CEQA."
http://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf

- Please include ramp intersections at I-805, and State Route 905 (SR-905) in the TIS. The geographic area examined in the TIS should also include, at a minimum, all regionally significant arterial system segments and intersections, including State transportation facilities.
- A focused analysis may be required for project trips assigned to a State highway facility that is experiencing significant delay, such as where traffic queues exceed ramp storage capacity.
- Any increase in goods movement operations and its impacts to State highway facilities should be addressed in the TIS.
- The data used in the TIS should not be more than 2 years old.
- Please provide Synchro Version 10 files.
- Early coordination is recommended.

Complete Streets and Mobility Network

Caltrans views all transportation improvements as opportunities to improve safety, access and mobility for all travelers in California and recognizes bicycle, pedestrian and transit modes as integral elements of the transportation system. Caltrans supports improved transit accommodation through the provision of Park and Ride facilities, improved bicycle and pedestrian access and safety improvements, signal prioritization for transit, bus on shoulders, ramp improvements, or other enhancements that promotes a complete and integrated transportation system. Early coordination with Caltrans, in locations that may affect both Caltrans and the City of San Diego, is encouraged. To reduce greenhouse gas emissions and achieve California's Climate Change target, Caltrans is implementing Complete Streets and Climate Change policies into State Highway Operations and Protection Program (SHOPP) projects to meet multi-modal mobility needs.

Environmental

The applicant must be informed that in accordance with 23 Code of Federal Regulations (CFR) 772, the Department of Transportation (Caltrans) is not responsible for existing or future traffic noise impacts associated with the existing configuration of SR-905.

Ms. Elizabeth Shearer-Nguyen
March 25, 2020
Page 3

Right-of-Way

Any work performed within Caltrans' Right-of-Way (R/W) will require discretionary review and approval by Caltrans and an encroachment permit will be required for any work within the Caltrans' R/W prior to construction. As part of the encroachment permit process, the applicant must provide an approved final environmental document including the California Environmental Quality Act (CEQA) determination addressing any environmental impacts within the Caltrans' R/W, and any corresponding technical studies.

If you have any questions, please contact Roger Sanchez-Rangel, of the Caltrans Development Review Branch, at (619) 688-6494 or by e-mail sent to roger.sanchez-rangel@dot.ca.gov.

Sincerely,

Maurice Eaton

Maurice Eaton, Branch Chief
Local Development and Intergovernmental Review Branch

NATIVE AMERICAN HERITAGE COMMISSION

February 26, 2020

Governor's Office of Planning & Research

FEB 28 2020

STATE CLEARINGHOUSE

Elizabeth Shearer-Nguyen
City of San Diego
1222 First Avenue, MS 501
San Diego, CA 92101

Re: 2004051076, Southwest Village Specific Plan Project, San Diego County

Dear Ms. Shearer-Nguyen:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b))). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1))). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.



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AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a.** A brief description of the project.
 - b.** The lead agency contact information.
 - c.** Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d.** A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

- 2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1 (b)).
 - a.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a.** Alternatives to the project.
 - b.** Recommended mitigation measures.
 - c.** Significant effects. (Pub. Resources Code §21080.3.2 (a)).

- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:
 - a.** Type of environmental review necessary.
 - b.** Significance of the tribal cultural resources.
 - c.** Significance of the project's impacts on tribal cultural resources.
 - d.** If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a.** Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b.** Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a.** The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b.** A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- a.** Avoidance and preservation of the resources in place, including, but not limited to:
 - i.** Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii.** Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - b.** Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i.** Protecting the cultural character and integrity of the resource.
 - ii.** Protecting the traditional use of the resource.
 - iii.** Protecting the confidentiality of the resource.
 - c.** Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - d.** Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - e.** Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - f.** Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a.** The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - b.** The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c.** The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, § 15064.5(f) (CEQA Guidelines § 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code § 7050.5, Public Resources Code § 5097.98, and Cal. Code Regs., tit. 14, § 15064.5, subdivisions (d) and (e) (CEQA Guidelines § 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address:
Andrew.Green@nahc.ca.gov.

Sincerely,



Andrew Green
Staff Services Analyst

cc: State Clearinghouse