



THE CITY OF SAN DIEGO

NEGATIVE DECLARATION

Project No. 607352

I.O. No. 24007856

SCH No. N/A

SUBJECT: **Marijuana Outlet 2281 Fairmount Avenue:** A CONDITIONAL USE PERMIT (CUP) to allow for a Marijuana Outlet (MO) to operate within a 2,800 square foot (s.f.) space of an existing 3,976 s.f. commercial building, on a 0.50-acre site. Interior improvements include the construction of a security check area, waiting area, reception room, dispensary area, office/camera room, prep room, break room, hallway, and restrooms. Exterior improvements include the removal of the existing exterior wall metal siding, and the construction of a new exterior wall at the same height of the existing building, 30.5 feet high. The project would re-construct an existing 24-foot wide driveway, adjacent to the site on Fairmont Avenue to meet City standards, and replace the damaged curb, gutter and sidewalk on Fairmount Avenue, and construct a new concrete bus stop slab on Fairmount Avenue along the project's frontage. The Mid-City Communities Plan designates the site as General Commercial with Limited Light Industrial Use and is designated Industrial Employment in the General Plan. The project site is located at 2281 Fairmount Avenue, in the IL-3-1 (Industrial-Light) and OR-1-1 (Open Space-Residential) Zones of the City Heights Neighborhood of the Mid-City Communities Planning area, City Heights Redevelopment Project, Special Flood Hazard Area (100 Year Floodway and 100 Year Floodplain), Brush Management, and the Very High Fire Hazard Severity Zone. (LEGAL DESCRIPTION: Parcel 1: Map No. 4954; Parcel 2: Map No. 3442; APN 541-280-09-00.) APPLICANT: March & Ash.

I. PROJECT DESCRIPTION:

See attached Initial Study.

II. ENVIRONMENTAL SETTING:

See attached Initial Study.

III. DETERMINATION:

The City of San Diego has conducted an Initial Study and determined that the proposed project will not have a significant environmental effect and the preparation of an Environmental Impact Report will not be required.

IV. DOCUMENTATION:

The attached Initial Study documents the reasons to support the above Determination.

V. MITIGATION, MONITORING AND REPORTING PROGRAM:

None required.

VI. PUBLIC REVIEW DISTRIBUTION:

Draft copies or notice of this Negative Declaration were distributed to:

City of San Diego

Mayor's Office
Councilmember Georgette Gomez-District 9
City Attorney's Office
San Diego Central Library
City Heights/Weingart Branch Library
Environment & Mobility Division, Deputy Director
Development Services
 Development Project Manager
 Senior Environmental Planner
 Associate Planner, Environmental
 Associate Planner, Planning Review
 Associate Engineer, Engineering Review
 Associate Planner, Landscape
 Associate Engineer, Transportation
 Associate Engineer, LDR-Geology
 Associate Planner, MSCP
Planning Department
 Program Manager, Facilities Financing

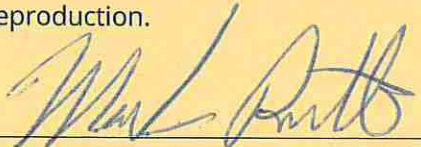
Other

City Heights Area Planning Committee
City Heights Business Improvement Association
John Stump
March & Ash (Applicant)
Patrick Hooper
Theresa Quiroz
City Link Investment Corporation
Fairmont Park Neighborhood Association

VII. RESULTS OF PUBLIC REVIEW:

- () No comments were received during the public input period.
- () Comments were received but did not address the accuracy or completeness of the draft environmental document. No response is necessary and the letters are incorporated herein.
- (X) Comments addressing the accuracy or completeness of the draft environmental document were received during the public input period. The letters and responses are incorporated herein.

Copies of the draft Negative Declaration and any Initial Study material are available in the office of the Development Services Department for review, or for purchase at the cost of reproduction.



Mark Brunette
Senior Planner
Development Services Department

04/11/19

Date of Draft Report

July 25, 2019

Date of Final Report

Analyst: R. Benally

Attachments: Initial Study Checklist
Figure 1 – Location Map
Figure 2 – Site Plan
Figure 3 – Exterior Elevations

Letters of Comments and Responses

The following comment letters were received during the public review of the draft Negative Declaration for the Marijuana Outlet 2281 Fairmount Avenue Project. A copy of each comment letter and responses have been included.

Letter	Author	Representing	Date	Page #
A	John Stump	N/A	April 15, 2019	2
B	John Stump	N/A	May 8, 2019	11
C	Mike DiPaolo	The Columbus Club of San Diego	May 8, 2019	55
D	Felix Tinkov	Law Office of Felix Tinkov	May 7, 2019	58
E	Robert Rowe	N/A	May 8, 2019	69
F	Theresa Quiroz	N/A	April 16, 2019	89
G	John Stump	N/A	April 16, 2019	90
H	John Stump	N/A	May 6, 2019	93
I	John Stump	N/A	April 15, 2019	124
J	Craig S. Neustaedter	Transportation Engineering & Planning, Inc.	May 28, 2019	129
K	Felix Tinkov	Law Office of Felix Tinkov	May 31, 2019	133

Letters of Comments and Responses

Rhonda

From: John Stump <mjohnstump@cox.net>

Sent: Monday, April 15, 2019 6:52 PM

To: DSEAS@sanidiego.gov; Benally, Rhonda <RBenally@sanidiego.gov>; Geiler, Gary <GGeiler@sanidiego.gov>; Tirandazi, Firouzeh <FTirandazi@sanidiego.gov>

Cc: CLK City Clerk <CityClerk@sanidiego.gov>; SDAT City Attorney <CityAttorney@sanidiego.gov>;

lgates@sanidiego.gov <lgates@sanidiego.gov>; Harrison, Tiffany <THarrison@sanidiego.gov>

Subject: RE: Marijuana Outlet at 2281 Fairmount Avenue -Current B&B Automobile Repair commercial use. Project No. 607352 / SCH No. N/A

I apologize there is an additional factor that requires evaluation with this project location

20. I believe that the very High pressure natural gas pipeline passes directly in front of the proposed project. The pipeline is larger and older than the infamous San Bruno pipeline. Location of more intense employee and customer operations should be evaluated against the existence of this hidden hazard. Appropriate mitigation could include fire and blast deflection measures, like window and door openings or limitations on sensitive construction facing the pipeline. The use or restriction of flammable materials might be restricted on sight in the CUP.

Have amend my earlier submission below

From: John Stump <mjohnstump@cox.net>

Sent: Monday, April 15, 2019 6:26 PM

To: DSEAS@sanidiego.gov; rbenally@sanidiego.gov; ggeiler@sanidiego.gov; ftirandazi@sanidiego.gov

Cc: 'CLK City Clerk' <CityClerk@sanidiego.gov>; cityattorney@sanidiego.gov; 'lgates@sanidiego.gov' <lgates@sanidiego.gov>; 'Harrison, Tiffany' <THarrison@sanidiego.gov>

Subject: Marijuana Outlet at 2281 Fairmount Avenue -Current B&B Automobile Repair commercial use. Project No. 607352 / SCH No. N/A

Dear Ms Rhonda Benally, Mr. Gary Geiler, and DPM Firouzeh Tirandazi,

I have received your notice concerning of the above listed project which would convert a long term automotive and truck repair use to a retail marijuana outlet. The conversion of limited light industrial use to a large volume retail operation raises serious concerns, as follows:

1. The current building has long been an automobile repair operation. It should be checked and examined for toxics from the current use and past uses. The change to retail and higher employee concentrations might expose the public and employees to higher levels of accumulated toxics as the change of use from an open air flow through multiple

A-1. Comment noted. This comment pertains to an offsite pipeline not considered a part of the proposed project. It should be noted that the proposed project would not manufacture any products onsite. Rather, the project would sell products manufactured offsite by licensed manufacturers. The project is limited to retail operations which are highly regulated by the City and the State in regard to handling, storage and sale of already manufactured product. When compared to the existing site use, the project would reduce the use of flammable materials onsite. As stated in Section VIII. Hazards and Hazardous Materials, page 18 of the Negative Declaration, the project does not involve the handling of acutely hazardous materials, substances, or waste. Any potentially hazardous materials used on the site would be those restricted to standard cleaning and landscape care products, other household products, building materials such as paint, concrete, and asphalt, cannabis waste (such as spoiled product), and similar substances. Appropriate handling techniques shall be implemented for the use and disposal of these materials in accordance with the manufacturer's instructions and applicable federal and state laws and local regulations. In addition, the project applicant was required to complete a Hazardous Materials Reporting Form which was submitted to the City. The submission of this form confirmed that the project would not include the use, storage, or dispensing of any of the hazardous materials listed on the form or perform any of the hazardous processes listed on the form. Therefore, the project would not create a significant hazard to the public or environment through the routine transport, use or disposal of hazardous materials. The proposed projects impacts related to hazardous materials would be less than significant.

A-2. Comment noted. The site is routinely inspected by the County DEH for compliance with handling, storage, and disposal of hazardous substances. The existing facility operates pursuant

Letters of Comments and Responses

to and in accordance with a Hazardous Materials Business Plan for storing and handling any hazardous materials. The most recent inspection was conducted in August 2018. These inspections are pursuant to the California Health and Safety Code (H&SC) to determine compliance with applicable provisions of the H&SC, the California Code of Federal Regulations and the San Diego County Code of Regulatory Ordinances. Further, the existing facility operates with all requisite permits and has undergone and passed all waste management inspections, including annual inspections by the County DEH. City staff has confirmed with the County of San Diego's Department of Environmental Health (DEH) that there are no active open or closed cases for the subject site. The project does not propose any excavation (i.e. below grade parking, sewer and water lines, basements), the project does not propose a change of use to a sensitive receptor (i.e. residential development), therefore the project does not meet the City's CEQA Significance Thresholds for hazardous materials, and therefore further environmental review is not necessary. In addition, as stated in Section of VIII. Hazards and Hazardous Materials, page 18 of the Negative Declaration, the project site is not included on any hazardous materials sites compiled pursuant to Government Code section 65962.5. Additionally, as part of the proposed project, the new building would apply a new sealant to the existing interior concrete slab, provide an HVAC system with adequate filters and would provide natural ventilation to the interior spaces. The facility would also provide an odor absorbing ventilation and exhaust system and any mechanical equipment on the roof would be fully screened by a metal roof and exterior metal siding. Additionally, the proposed project would continue the existing site use as a commercial facility and the past operation was not considered an industrial use. The Project was also reviewed by qualified City staff and determined to pose no risk to life safety. Therefore, the proposed project would provide adequate air flow. Refer to response A-1.

Letters of Comments and Responses

- | | |
|--------------|---|
| A-2
cont. | garage doors business to a closed doors high security operation, with limited air flow. The current building use has open air flow, East to West through truck size garage doors on both sides of the current building; |
| A-3 | 2. The current building has a small number of employees with inadequate onsite parking for the employees and customers, as evidenced by daily offsite vehicle transfers to on street and offsite parking; |
| A-4 | 3. The building has substantial and numerous electronic cell or transmission equipment which should be evaluated for appropriateness and safety for increased number of employees and customers over extended hours of operations and hours. The current business operates only Weekdays and on a limited daily hour of operation schedule. The new Conditional Use Permit should restrict the hours of operation to no more than the current limited hours of operation; |
| A-5 | 4. Is the new use going to have a more extended schedule of hours of operation and days of operation? How will the new CUP limit the hours and nature of operations to no more than the current hours of operation? |
| A-6 | 5. The subject Notice identifies correctly that the proposed project is adjacent to a high fire hazard hillside backing up to residential homes; but it does not state how this known hazard is to be mitigated. The Notice fails to identify that this hillside is well known as habitat for California Gnatcatchers and other listed species of fauna and flora. The is an established Environmental reserve to preserve this habitat about a mile West, of the project behind the SDFD Police Garage.

a. The Flora & Fauna habitat impacts must be evaluated and mitigated
b. The Fire hazards must be mitigated so that the adjacent hillside is protected by a clear and fenced off fire buffer installed |
| A-7 | 6. The Notice correctly identifies that the subject property is within an established flood zone. It does not make clear that the subject property's Northern boundary is the Auburn Creek, a listed impaired tributary of the North Chollas Creek draining directly into San Diego Bay. The impacts to the Auburn Creek must be evaluated and at minimum include the following:

a. Mitigation measures to prevent storm water flow from impervious surfaces into Auburn Creek;
b. Removal of nonnative and invasive plant species currently present like Castor Bean, Arundo, Eucalyptus and related weeds;
c. Fencing and drainage corrections to prevent wash into the Auburn Creek; and
d. Restoration of sensitive habitat damaged by current uses and |

- A-3.** As stated on page 4 of the Negative Declaration, Description of the Project, the project would meet the parking requirements contained in the City of San Diego Municipal Code Section 131.0530. The minimum parking spaces required for the project is 14 spaces. A total of 16 parking spaces would be provided (including 1 carpool space, 2 motorcycle spaces, 1 accessible space, and one zero emissions space with an electric vehicle charging station). Two short-term and one long-term bicycle parking space in the form of a bike locker would also be provided. Therefore, adequate parking would be available for the project.
- A-4.** Per the City's CEQA Thresholds for Health and Safety, any existing wireless facilities are required to comply with federal, including the Telecommunications Act of 1996, state and local regulations. Additionally, the project does not propose any change to the existing wireless facilities or any new additions to telecommunication equipment.
- A-5.** Comment noted. As stated on page 5 of the Negative Declaration, Description of the Project, the project would operate between the hours of 7:00 am and 9:00 pm, seven days a week. These hours of operation would be conditioned as part of the project's Conditional Use Permit.

Letters of Comments and Responses

- A-6.** Comment noted. As stated in Section of IV. Biological Resources, page 12 of the Negative Declaration, the site is almost entirely developed as a vehicle repair shop on a graded pad and no native habitat is located within the project's development footprint. Brush Management Zone Two overlaps with a portion of previously disturbed hillside that contains a small patch of native coastal sage-chaparral mix vegetation including approximately three Nuttall's scrub oak (*Quercus dumosa*) shrubs. This special status species has a California Rare Plant Rank of 1B.1, but no federal or state listing. The individuals within the Brush Management Zone Two would not be removed during thinning of vegetation; and will be preserved in place. Zone Two is impact neutral. Therefore, the proposed project would not directly, or through habitat modification, adversely affect any species identified as candidate, sensitive or special status species in local or regional plans, policies or regulations, or by California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife (USFWS). A portion of the City's Multi-Habitat Planning Area (MHPA) hard-line preserve is mapped along the southeastern edge of the site and would not be directly impacted by the project. Additionally, the project would be required to implement the MSCP Land Use Adjacency as a condition of approval. Implementation of the MSCP Land Use Adjacency would reduce potential indirect impacts to below a level of significance. Further, the project site does not serve as a wildlife corridor because it does not form a connection to other potential wildlife habitat nearby. No sensitive faunal species, such as California gnatcatcher, occur on the project site. No sensitive wildlife species would be directly or indirectly impacted by implementation of the project. Therefore, the project would not have a substantial adverse effect, either directly or through habitat modifications, on any biological resource or habitat. Impacts would be less than significant.

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In regard to potential wildland fire hazards, Section VIII. Hazards and Hazardous Materials, page 18 of the Negative Declaration states that, as part of the project, a Brush Management Program would be implemented. Brush Management Zone One is the area adjacent to the structure, considered the least flammable, and would consist of pavement and permanently irrigated ornamental and drought tolerant planting. Brush Management Zone Two is the area between Zone One and the area of native or naturalized vegetation and would consist of thinned, native or naturalized non-irrigated vegetation. The brush management zones were established based on the existing, previously conforming structure. Zone One width ranges from 8'-4" to 42'-4" while Zone Two width ranges from 5'9" to 19'8". All proposed landscape and irrigation onsite would conform to the standards of the City-wide Landscape Regulations and the City of San Diego Land Development Manual Landscape Standards and other landscape related City and regional standards. The project is not required to provide alternative compliance measures since this is an existing, previously conforming structure. However, the project is proposing to provide additional fire-resistant measures, such as upgrading openings to dual glazed and dual tempered panes. With implementation of the Brush Management Program, appropriate landscaping and fire-resistant construction, the project would not expose people or structures to a significant risk of loss, injury or death involving wildland fires.

Letters of Comments and Responses

A-7 cont.	proposed uses;
A-8	7. The area has a long established unsheltered population that inhabit the hillside adjacent to the property and gain access from the lack of continuous security fencing surrounding the property, including the Auburn Creek and Hillside and rear of property. These areas need to be fenced off to prevent sales, operations, and after hours entry from the non-street side Fairmount entrance. There currently seems to be repair operations on two sides of the existing building , through east and west garage doors;
A-9	8. Trash and Recycling facilities seem to not be present on the property. Screened and secure waste disposal facilities, of appropriate size and volumes, need to be required in any CUP permit;
A-10	9. The property currently has insufficient parking for the current limited truck and vehicle repair operations. The project should be carefully evaluated for the number of parking spaces for both employees and customers and deliveries. The parking should fully conform with the number of ADA blue van accessible spaces for the employees and customers and the number of ADA spaces listed in the CUP;
A-11	10. The Noticing of this project should include Noticing to the adjacent property owners, the Ridgeview Neighborhood Association and City Heights Area Planning Committee;
	11. The project should be Noticed to the State Fish and Game and Regional Water Quality agency because of the impaired nature of the adjacent Auburn and Chollas Creek and habitats;
	12. The Corp of Engineers and FEMA should be noticed because of the well-established and continuous flooding of this area;
A-12	13. Fairmount Avenue (47 th Street) is a high speed commercial route to Home Avenue and the I-805 freeway. This property has substandard sight lines for egress and ingress. These dangerous conditions require additional pedestrian, bicycle, and vehicle safety considerations. In addition to standard sidewalks , curbs, and gutters, with improved sight lines, there should be further study of striping and other traffic control measures to encourage safe pedestrian and bicycle access and limit out of direction crossing into and out of this property. The adjacent curbs should be painted and signed No Parking to improve sight lines for safety;
A-13	14. Sidewalks and bicycle access is particularly important as there is an adjacent bus stop;

A-7. Comment noted. A portion of a channelized tributary to Chollas Creek is located along the northwestern property boundary. This channelized tributary has concrete banks and a cobble bed. Any vegetation that grows within the tributary channel is subject to maintenance and clearing by the City for storm water management, and natural riparian habitat is not present in the channel. The tributary bank is separated from the project development footprint by a chain-link fence. The only project-related change to conditions along the edge of the bank would be the installation of native and drought tolerant vegetation. The tributary would not be impacted by the project and the project would have no substantial adverse effect on any riparian or other sensitive habitat.

A-8. Regarding unsheltered populations in the area, as part of the project, the current onsite repair operations will be removed, including the east and west garage doors. As stated on page 4 of the Negative Declaration, Description of the Project, the project would include the following security measures: operable cameras, alarms, a metal detector, and a security guard licensed by the State of California. At least one (1) security guard would be present during all hours and more than one (1) security guard would be present during all business hours as required by City regulation. As shown in the Proposed Security Plan prepared by Urban Systems Associates, Appendix C of the Negative Declaration, the proposed building improvements would also include bullet proof windows, walls, and doors. Therefore, the project provides increased security measures.

A-9. Comment noted. The project would provide solid waste trash and recycling enclosures screened with new fencing, to be located at the northwest corner of the building, as shown on Figure 2 of the Negative Declaration.

Letters of Comments and Responses

- A-10.** Refer to response to comment A-3. Parking for the project would meet the parking requirements contained in the City of San Diego Municipal Code and would be accommodated by surface parking stalls. The minimum number of parking spaces required for the project is 14 spaces and a total of 16 parking spaces would be provided including one carpool space, one van accessible space, one zero emissions space with an electric vehicle charging station, and two motorcycle parking spaces.
- A-11.** The project was appropriately noticed to the public and required agencies. The project would not have any significant direct, indirect or cumulative impacts to Auburn or Chollas Creek habitats. Refer to response to comment A-7.
- A-12.** This comment pertains to offsite conditions not related to implementation of the proposed project. As stated on page 4 of the Negative Declaration, Description of the Project, the project will replace existing damaged curb, gutter, and sidewalk on Fairmount Avenue located along the frontage to improve pedestrian access. The nearby intersection of Fairmount Avenue and Home Avenue (located approximately 170 feet north of the site) is currently striped with continental crosswalks across each street to facilitate pedestrian crossing. No parking is currently allowed along Fairmount Avenue in the project vicinity due to the presence of a Class II bicycle facility, and there are signs indicating such located along the length of Fairmount Avenue. The project will also install a new concrete bus pad on Fairmount Avenue along the project frontage. The existing Class II bicycle land on Fairmount Avenue will be retained. Ingress and egress would be provided from a re-constructed 24-foot wide driveway on Fairmount Avenue. All project improvements would be made to comply with City standards. The proposed project would improve the onsite driveway to City standards and provide parking in compliance with the required standards (see response A-3).

Letters of Comments and Responses

A-14	15. There is a documented earthquake fault that runs over the ridge adjacent to this property, the project should be evaluated based on the known fault and building foundations and construction;
A-15	16. The Department of Toxic Substance Control should receive notice of this project and asked to evaluate that the long term past uses may have created a yet undocumented residue of toxic substances;
A-16	17. The timing of proposed demolition and construction should be timed so as not to interfere with listed species breeding and fledging;
A-17	18. Project lighting must be appropriately screened and shaded; so as not to cast light on or interfere with the reproductive amphibian species that use the adjacent Auburn Creek;
A-18	19. Street visible and billboard advertising should be restricted at this site, in its CUP. The proposed project should not be permitted to advertise on the adjacent Fairmount Avenue Billboard.
A-19	20. I believe that the very High pressure natural gas pipeline passes directly in front of the proposed project. The pipeline is larger and older than the infamous San Bruno pipeline. Location of more intense employee and customer operations should be evaluated against the existence of this hidden hazard. Appropriate mitigation could include fire and blast deflection measures, like window and door openings or limitations on sensitive construction facing the pipeline. The use or restriction of flammable materials might be restricted on sight in the CUP.
A-20	I request an electronic copy of the applicants package and any and all reports correspondence prepared for this project by the City or its consultants. I further request notice of all findings and hearings for this project.
A-21	This project requires significant mitigations to correct the past abuses at the project site; changed environmental, storm water, and pedestrian , bicycle and traffic conditions. This project may be the wrong kind of new use for this location without significant additional mitigations and a significantly more restrictive Conditional Use Permit

All the best,
John Stump
 Under the Big Tree At 3 Leaf
 2415 Shamrock Street
 City Heights, California 92105-4515

A-13. Comment noted. This comment does not pertain to the environmental analysis contained within the Negative Declaration. The project includes the re-construction of a 24-foot driveway to meet City standards and replace existing damaged curb, gutter and sidewalk on Fairmount Avenue along the project frontage. The project also provides 16 parking spaces, provides an accessible path of travel from the adjacent public right-of-way to the project entrance, and replaces existing curb, gutter and sidewalk on Fairmount Avenue. In addition, the project would construct a new bus stop concrete slab on Fairmount Avenue along the project's frontage. The existing Class II bicycle lane on Fairmount Avenue will be retained. Two short-term bicycle parking spaces and one long-term bicycle parking space would also be provided. The project site is located in close proximity (within 1,320 feet of walking distance) to six bus stops. Therefore, the project would not conflict with any adopted plans, policies or programs regarding alternative transportation. Impacts would be less than significant.

A-14. As stated in Section VI. Geology and Soils, page 16 of the Negative Declaration, the project site is not located within an Alquist-Priolo Earthquake Fault Zone and is not traversed by any known earthquake faults. In addition, the project would be required to comply with seismic requirements of the California Building Code. Implementation of proper engineering design and utilization of standard construction practices to be verified at the building permit stage would ensure that the potential for impacts from regional geologic hazards would be less than significant.

A-15. Refer to response A-2.

A-16. As stated in the Section IV. Biological Resources, page 12 of the Negative Declaration, the proposed project would not directly, or through habitat modification adversely affect any species identified as candidate, sensitive or special status species in local or regional plans, policies or regulations, or by California

Letters of Comments and Responses

Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife (USFWS). Therefore, mitigation is not required.

- A-17.** As stated in the Section I. Aesthetics, page 9 of the Negative Declaration, in order to comply with Marijuana Outlet Code Provisions (SDMC Section 141.0504 (b)), the project would provide lighting to illuminate the interior, façade and immediate surroundings, with all lighting oriented to deflect light away from adjacent properties. In addition, the project would comply with the outdoor lighting standards contained in Municipal Code Section 142.0740 that require all outdoor lighting be installed, shielded and adjusted so that the light is directed in a manner that minimizes negative impacts from light pollution, including trespass, glare, and to control light falling onto surrounding properties. In addition, the project would be required to implement the MSCP Land Use Adjacency for indirect impacts as a condition of approval. Implementation of the MSCP Land Use Adjacency would reduce potential indirect impacts, such as lighting, to below a level of significance. Therefore, the project's compliance with the Land Development Code of the lighting regulations would not adversely affect any sensitive resources.
- A-18.** Comment noted. All primary signs would be posted on the outside of the building. The project does not propose a billboard advertising sign on the adjacent Fairmount Avenue Billboard.
- A-19.** See response A-1.
- A-20.** The contact information has been added to the notification list.
- A-21.** Refer to responses A-1 through A-20 related to each issue raised by the commenter.

Letters of Comments and Responses

John Stump
2413 Shamrock Street
City Heights, California 92105
619-281-4663 mrjohnstump@cox.net

May 8, 2019

City of San Diego, Storm Water Department, Planning Department; Transportation and Streets, Public Utilities and City Clerk

RE: Projects PTS No. 630996 Group Job 968 – Home Avenue /Fairmount Avenue Water and Storm drain; Project No. 607352 – Marijuana Outlet 2281 Fairmount Avenue; Project No. 593686 – 4337 Home Avenue Marijuana Outlet; and Capital Improvement Projects proposed in the Mayors's 2020 City of San Diego Budget – Capital Improvement Projects

Dear Angela Nazareno; Ms Rhonda Benally; Mr. Gary Geiler; Mr. Firouzeh Tirandazi; Mr. Mark Brunette, Environmental Planner and DSDEAS@sanidiego.gov

I have received four notices concerning two (2) pending and proposed Marijuana Outlets, listed above, a significant Storm Water and Water Utility pipeline project at Home Avenue / Fairmount Avenue, listed above, a pending additional Marijuana Outlet project on the south side of Home Avenue , in the ARCO Gas Station parcels; and the pending Capital Improvement Projects for Home Avenue, Fairmount Avenue, Federal Boulevard, and Euclid Avenue. All of these projects are within the small and sensitive watershed of Auburn Creek in City Heights. I am concerned that these projects have or will have **cumulative effects and impacts** on the people and environment of Auburn Creek watershed area.

Earlier this month, I provided some twenty comments and concerns regarding Project No. 607352 – Marijuana Outlet 2281 Fairmount Avenue. These initial comments are excerpted below:

"I have received your notice concerning of the above listed project which would convert a long term automotive and truck repair use to a retail marijuana outlet. The conversion of limited light industrial use to a large volume retail operation raises serious concerns, as follows:

1. *The current building has long been an automobile repair operation. It should be checked and examined for toxics from the current use and past uses. The change to retail and higher employee concentrations might expose the public and employees to higher levels of accumulated toxics as the change of use from an open air flow through multiple garage doors business to a closed doors high security operation, with limited air flow. The current building use has open air*

Cumulative Impacts Auburn Creek 1 OF 5

© mrjohnstump@cox.net

B-1. Comment noted.

B-2. Comment noted. This comment references Mr. Stump's letter, dated April 15, 2019 and provides duplicative comments to those in Letter A. Refer to response A-1 through A-20, as noted in the above letter.

Letters of Comments and Responses

B-2
cont.

flow, East to West through truck size garage doors on both sides of the current building;

2. The current building has a small number of employees with inadequate onsite parking for the employees and customers, as evidenced by daily offsite vehicle transfers to on street and offsite parking;
3. The building has substantial and numerous electronic cell or transmission equipment which should be evaluated for appropriateness and safety for increased number of employees and customers over extended hours of operations and hours. The current business operates only Weekdays and on a limited daily hour of operation schedule. The new Conditional Use Permit should restrict the hours of operation to no more than the current limited hours of operation;
4. Is the new use going to have a more extended schedule of hours of operation and days of operation? How will the new CUP limit the hours and nature of operations to no more than the current hours of operation?
5. The subject Notice identifies correctly that the proposed project is adjacent to a high fire hazard hillside backing up to residential homes; but it does not state how this known hazard is to be mitigated. The Notice fails to identify that this hillside is well known as habitat for California Gnatcatchers and other listed species of fauna and flora. There is an established Environmental reserve to preserve this habitat about a mile West, of the project behind the SDPD Police Garage.
 - a. The Flora & Fauna habitat impacts must be evaluated and mitigated
 - b. The Fire hazards must be mitigated so that the adjacent hillside is protected by a clear and fenced off fire buffer installed
6. The Notice correctly identifies that the subject property is within an established flood zone. It does not make clear that the subject property's Northern boundary is the Auburn Creek, a listed impaired tributary of the North Chollas Creek draining directly into San Diego Bay. The impacts to the Auburn Creek must be evaluated and at minimum include the following:
 - a. Mitigation measures to prevent storm water flow from impervious surfaces into Auburn Creek;
 - b. Removal of nonnative and invasive plant species currently present like Castor Bean, Arundo, Eucalyptus and related weeds;
 - c. Fencing and drainage corrections to prevent wash into the Auburn Creek; and
 - d. Restoration of sensitive habitat damaged by current uses and proposed uses;
7. The area has a long established unsheltered population that inhabit the hillside adjacent to the property and gain access from the lack of continuous security fencing surrounding the property, including the Auburn Creek and Hillside and rear of property. These areas need to be fenced off to prevent sales, operations, and after hours entry from the non-street side Fairmount entrance. There currently seems to be repair operations on two sides of the existing building, through east and west garage doors;

Cumulative Impacts Auburn Creek 2 OF 5

© mrjohnstump@cox.net

Letters of Comments and Responses

B-2
cont.

8. *Trash and Recycling facilities seem to not be present on the property. Screened and secure waste disposal facilities, of appropriate size and volumes, need to be required in any CUP permit;*
9. *The property currently has insufficient parking for the current limited truck and vehicle repair operations. The project should be carefully evaluated for the number of parking spaces for both employees and customers and deliveries. The parking should fully conform with the number of ADA blue van accessible spaces for the employees and customers and the number of ADA spaces listed in the CUP;*
10. *The Noticing of this project should include Noticing to the adjacent property owners, the Ridgeview Neighborhood Association and City Heights Area Planning Committee;*
11. *The project should be Noticed to the State Fish and Game and Regional Water Quality agency because of the impaired nature of the adjacent Auburn and Chollas Creek and habitats;*
12. *The Corp of Engineers and FEMA should be noticed because of the well-established and continuous flooding of this area;*
13. *Fairmount Avenue (47th Street) is a high speed commercial route to Home Avenue and the I-805 freeway. This property has substandard sight lines for egress and ingress. These dangerous conditions require additional pedestrian, bicycle, and vehicle safety considerations. In addition to standard **sidewalks**, curbs, and gutters, with improved sight lines, there should be further study of striping and other traffic control measures to encourage safe pedestrian and bicycle access and limit out of direction crossing into and out of this property. The adjacent curbs should be painted and signed **No Parking** to improve sight lines for safety;*
14. *Sidewalks and bicycle access is particularly important as there is an adjacent bus stop;*
15. *There is a documented earthquake fault that runs over the ridge adjacent to this property, the project should be evaluated based on the known fault and building foundations and construction;*
16. *The Department of Toxic Substance Control should receive notice of this project and asked to evaluate that the long term past uses may have created a yet undocumented residue of toxic substances;*
17. *The timing of proposed demolition and construction should be timed so as not to interfere with listed species breeding and fledging;*
18. *Project lighting must be appropriately screened and shaded; so as not to cast light on or interfere with the reproductive amphibian species that use the adjacent Auburn Creek;*

Cumulative Impacts Auburn Creek 3 OF 5

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Letters of Comments and Responses

B-2 cont.	<p>19. <i>Street visible and billboard advertising should be restricted at this site, in its CUP. The proposed project should not be permitted to advertise on the adjacent Fairmount Avenue Billboard.</i></p> <p>20. <i>I believe that the very High pressure natural gas pipeline passes directly in front of the proposed project. The pipeline is larger and older than the infamous San Bruno pipeline. Location of more intense employee and customer operations should be evaluated against the existence of this hidden hazard. Appropriate mitigation could include fire and blast deflection measures, like window and door openings or limitations on sensitive construction facing the pipeline. "</i></p>
B-3	<p>In todays, Union Tribune newspaper there was reporting of "DEA investigating Mira Mesa cannabis lab explosion" http://cnews.sandiegouniontribune.com/infinity/article_share.aspx?guid=c9922511-5281-472b-9e11-f3f25cebafe</p> <p>My previous comments made mention of fire hazards for this location but I had not considered the flammable and explosive nature of solvents used in these Marijuana operations or sales. Please evaluate the increased fire hazards presented by all marijuana operations, particularly sited along the hillsides of the Auburn Canyon or adjacent to Gasoline distribution locations, or near the Rainbow Pipeline.</p>
B-4	<p>Over the weekend, I prepared the attached Auburn Creek and Auburn Canyon, white paper to identify issues and resources that must be considered to fairly evaluate any projects in this environmentally sensitive area. I listed some twenty-eight studies and reports that should be considered by project reviewers. I also request that the reviewers read the CEQA /NEPA reports/studies referenced in my white paper and related area CEQA /NEPA reports/studies in this are prepared by the City of San Diego, County of San Diego CALTRANS, and the San Diego Unified School District for their water shed.</p> <p>I request that my earlier 20 comments, this letter, and the attached white paper be considered as comments on all of these area projects.</p>
B-5	<p>Additionally, it has come to my attention that the real parties in interest may not have been fully identified concerning the three (3) Marijuana Projects. Please carefully review who is the owner, property owners, and beneficiaries in the granting of these project applications. I strongly suggest that the applicants be very carefully queried to establish the real parties of interest.</p>
B-6	<p>Please physically post the notice of these applications and provide Notices to all property owners within 300 feet and the area neighborhood associations for Fairmount Park, Bridgeview Association, Ridgeview Association, Isle Nair Association, Fox Canyon Association, and Azalea Park Association.</p>

B-3. Comment noted. The project does not propose to manufacture any products onsite or engage in any other manufacturing activity, unlike the operation referenced in the commenter's newspaper article. Rather, the project involves solely in the retail sale of products manufactured offsite by licensed producers. As stated in Section VIII. Hazards and Hazardous Materials, page 18 of the Negative Declaration, the project does not involve the handling of acutely hazardous materials, substances, or waste. Any potentially hazardous materials used on the site would be those restricted to standard cleaning and landscape care products, other household products, building materials such as paint, concrete, and asphalt, cannabis waste (such as spoiled product), and similar substances. Appropriate handling techniques shall be implemented for the use and disposal of these materials in accordance with the manufacturer's instructions and applicable federal, and state laws and local regulations. Therefore, the project would not create a significant hazard to the public or environment through the routine transport, use or disposal of hazardous materials. Impacts related to hazardous materials would be less than significant. Refer to response A-1.

B-4. City staff received Mr. Stump's letter dated May 8, 2019, including the attached white paper. This comment makes reference to Mr. Stump's previous letter to the City, dated April 15, 2019, noted as Letter A. Refer to response A-1 through A-20 for each of the issues identified in Mr. Stump's April 25, 2019 letter. Please also see response B-1 through B-3 for responses to each comment made in the May 8, 2019 letter. As stated in Section IV, Biological Resources, page 12 of the Negative Declaration, a portion of a channelized tributary to Chollas Creek

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is located along the northwestern property boundary. This channelized portion of a channelized tributary to Chollas Creek is located along the northwestern property boundary. This channelized tributary has concrete banks and a cobble bed. Any vegetation that grows within the tributary channel is subject to maintenance and clearing by the City for storm water management, and natural riparian habitat is not present in the channel. The tributary bank is separated from the project development footprint by a chain-link fence. The only project-related change to conditions along the edge of the bank would be the installation of native and drought tolerant vegetation. The tributary would not be impacted by the project. The project would have no substantial adverse effect on any riparian or other sensitive habitat. No such impacts, therefore, would occur. Due to the fact that the proposed project would not result in any direct, indirect or cumulative biological resources impacts, the referenced "white paper" does not raise a significant environmental issue and no further response is required. Refer to response A-7.

- B-5.** The Project Applicant is identified on Page 4 of the Negative Declaration. The project will occur on developed footprint, and will not result in any direct impacts to sensitive biological resources, therefore mitigation is not required. This comment does not address the adequacy of the environmental document.
- B-6.** The project was noticed, in accordance with the Land Development Code, to the public and required agencies.

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I request written responses to these comments and the white paper, which is incorporated by reference. I further request reasonable notice and the opportunity to attend any hearing held on these projects

I have attached my referenced white paper which is incorporated by reference.

All the best,

/s/

John Stump

Attachment

JWS/st

B-7. Comment noted. For responses to the letter dated May 8, 2019, refer to comments B-1 through B-6. For the response to the "white paper," Attachment 1, refer to B-4. The contact information has been added to the notification list.

Letters of Comments and Responses

Attachment 1

CHOLLAS RESTORATION, ENHANCEMENT AND CONSERVANCY

4133 Poplar
City Heights, California 92105
chollas-creac@cox.net

May 11, 2010

Honorable San Diego Planning Commission
City of San Diego
202 C Street
San Diego, CA 92101

RE: AUBURN CREEK designation in proposed Master Storm Water System Maintenance Permit (Item # 6)

Honorable Planning Commission,

B-8

I am writing you to ask that you adopt the designation made by the San Diego City Council concerning the Auburn Creek tributary of the Chollas Creek. The City Council carefully considered the appropriate name and designation for this natural water body during its deliberation on the Federal Emergency Management Agency (FEMA) Flood Plan, on October 7, 2008- Agenda Item 109. City Council, after receiving my testimony and the attached letter, of the same date, took action as follows:

"COUNCIL ACTION: (Time duration: 5:29 p.m. – 5:39 p.m.)

***MOTION BY FRYE TO ADOPT WITH DIRECTION TO STAFF TO INCLUDE
AUBURN CREEK IN THE FLOOD MITIGATION PLAN AND ALL COMMENTS
MADE BY MR. JOHN STUMP FROM HIS LETTER DATED OCTOBER 7, 2008, TO
BE ANNOTATED TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY.***

*Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-not
present, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea." (Minutes 10-7-2008, #109)*

City Council took this action to preserve and enhance the well-established historic nature of this creek; its continual human use for recreational and gathering uses; and in recognition of the valuable habitat it provides to listed and endangered species of plants and animal. Nearly every CEQA Environmental Impact Report and study of this water body has identified its historic use by Native Americans; the presence of valuable plants and animals along and within its shores; and the current and future uses of this creek to provide a needed recreation setting for needed parks and open spaces. (Please see the City studies for Wightman Park, Fox Canyon Park, and the Central Police Garage & SD City Schools studies for the Mary Fay Elementary School). Auburn Creek had sufficient habitat value, for California Gnatcatchers and other species, that the City of San Diego set aside some 18 acres of special environmental preserve, adjacent to the Auburn Creek to mitigate for the impacts from the construction and operation, of the Police Central Garage, at Home Avenue and Federal Boulevard.

Auburn Creek is unique amongst the tributaries of the Chollas Creek, as its source is a spring. Auburn Creek is the defining water feature of City Heights. Auburn Creek provides City Heights its natural link to the San Diego Bay.

Please take action to name and designate this creek as Auburn Creek and not "Home Avenue Channel" or "Home Avenue Drain" as proposed in the Master Storm Water System Maintenance Permit. Such action will be consistent with the direction of City Council and Council Policy 600-14. Please carefully consider the protections expressed in Council Policy 600-14 for environmentally sensitive areas and permits in those areas.

Thank you for considering this appeal and concerns regarding the proposed permit.

Respectfully submitted,
Chollas Restoration, Enhancement, and Conservancy Community Development Corporation, Inc.

John Stump, President

Attached: CREAC letter to San Diego City Council of October 7, 2008

Copy to: Councilwoman Donna Frye, CREAC CDC Board of Director, James Varnadore, City Heights Planning Chairman

B-8. Refer to response B-4.

Letters of Comments and Responses

CHOLLAS RESTORATION, ENHANCEMENT AND CONSERVANCY

4133 Poplar
City Heights, California 92105
chollas-creac@cox.net

October 7, 2008

Honorable San Diego City Council and Mayor Jerry Sanders
City of San Diego
202 C Street
San Diego, CA 92101

RE: FEMA Flood Mitigation Plan and related Council Policy 600-14

Honorable Leaders,

I am writing you to comment and appeal the proposed FEMA Flood Mitigation Plan as proposed by the Mayor's Staff and URS consultants. The plan is incomplete, has errors, and does not fully protect human health and safety, real property and jobs, and sensitive environmental habitats adjacent to the impaired Chollas Creek, under Council Policy 600-14 and the Chollas Creek Enhancement Plan.

1. The draft plan mis identifies the "**AUBURN CREEK**", tributary of the Chollas Creek. The plan calls out at least two different names for this natural feature. Staff agrees that this error should be changed. **Auburn Creek should appear on FEMA Plan.** Adoption of this FEMA plan needs this addition.

2. **Council Policy 600-14** requires the protection of environmentally sensitive lands under the flood plans; but recent permit actions demonstrate that this is not happening. A staff level permit was issued for a car wash adjacent to Auburn Creek; without compliance to the Chollas Creek Enhancement Plan or full storm water operational BMPs (4345 Home Avenue). In 2000, the Sierra Club raised these policy concerns- attached. **This permit needs review and compliance with policy 600-14 provisions for environmental sensitive areas needs re-statement. Car Wash work should be stopped until compliance is obtained.**

3. The area of Wightman Street Park is not shown as a "Flood area" on the proposed FEMA map. Areas south of the park and Auburn Drive are shown. CREAC is submitting the testimony from the recent hearing on the Wightman Park. **Wightman Park floods and must be called out on the proposed FEMA Flood map.**

4. The City seems to continue to use a storm water run off constant or "Q" for hydrology reports and flood maps which is no longer appropriate for San Diego in the 21st Century. The City continues to use the "County or Rural Q" rather than the "City or Urban Q" for estimating storm water run off. Use of the farmland Q underestimates run off and flooding by as much as 60%. FEMA maps may be error because the wrong "Q" was used. **The City must use an "Urban Q" as a matter of policy.**

5. The FEMA Plan on "DAMS" raises serious concerns regarding the 1901 Chollas Heights Reservoir earthen dam. The report states that this dam is adjacent to an earthquake fault, that some 84,000 persons live below it, and that such dams fail every 100 years. Other reports have raised concerns regarding bottom lake leakage. There is an established need to reline this lake. **The FEMA Plan should be reviewed to identify the dam catastrophe hazard area and population numbers. A FEMA GRANT should be sought for Chollas Lake.**

Thank you for considering this appeal and, complaint, and concerns regarding the proposed FEMA Flood Plan.

Respectfully submitted
Chollas Restoration, Enhancement, and Conservancy
John Stump, President

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cont.

DISPERSAL CAPABILITY OF THE CALIFORNIA GNATCATCHER: A LANDSCAPE ANALYSIS OF DISTRIBUTION DATA

ERIC A. BAILEY and PATRICK J. MOCK, Ogden Environmental and Energy Service Company, 5510 Morehouse Drive, San Diego, California 92121 (current address of Mock, as corresponding author, Dames & Moore, Inc., 9665 Chesapeake Drive, Suite 201, San Diego, California 92123)

Dispersal is the means by which genetic and demographic exchange between subpopulations maintains the viability of the regional metapopulation (Fahrig and Merriam 1985, Lacy 1987, Merriam 1991). Our paper describes potential limitations of existing data on dispersal of juvenile California Gnatcatchers (*Polioptila californica*) and provides a landscape analysis of distribution data from areas of fragmented habitat. This analysis suggests that the dispersal capability of the California Gnatcatcher may be underappreciated.

METHODS

We studied California Gnatcatchers on approximately 842 ha of coastal sage scrub near the Sweetwater River in the unincorporated community of Rancho San Diego in southwestern San Diego County (32° 40' N, 117°W). Rancho San Diego is approximately 21 km from the Pacific coast and 21 km north of the United States-Mexico border. There were two primary study areas within 2 km of each other. Gnatcatchers were color-banded at the larger study area (1200 ha) from 1989 to 1991 and at the second smaller (111 ha), more easterly, study area (111 ha) from 1989 to 1992. We banded a total of 100 juvenile California Gnatcatchers between 1988 and 1992; 23 individuals were resighted in subsequent years after having dispersed away from their banding locations. We compare this dispersal data to comparable data for the Palos Verdes Peninsula (Atwood et al. 1998).

We evaluate the landscape characteristics of five dispersals of juvenile gnatcatchers to isolated sage scrub fragments at Palos Verdes (Los Angeles County), Encinitas, Point Loma, and the South Park, and Chollas Creek neighborhoods in the city of San Diego. For each dispersal we measured the distance both as a straight line and along a parsimonious landscape route favoring natural vegetation and topography. Vegetation and sighting information were derived from databases for regional habitat-conservation-planning programs maintained by the San Diego Association of Governments and the city of Rancho Palos Verdes. Aerial photographs (1:24,000 scale) were used to interpret the types of highly human-modified habitats.

RESULTS

Dispersal of banded juvenile California Gnatcatchers has been studied at Rancho San Diego (Mock and Bolger 1992), the Palos Verdes Peninsula (Atwood et al. 1998), and Siphon Reservoir, Orange County (Galvin 1998). The first two studies have documented median straight-line dispersal distances

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DISPERSAL CAPABILITY OF THE CALIFORNIA GNATCATCHER

of less than 3 km (Figure 1), whereas the third reports an average dispersal distance of less than 500 m (excluding a single observation at 7.55 km). The dispersal curves for Palos Verdes and Rancho San Diego are similar, but these results likely underestimate the gnatcatcher's typical dispersal distance because of the limitations of a relatively small search area (Barrowclough 1978, Cunningham 1986, Payne 1990). The Palos Verdes Peninsula population is presumably a closed population with restricted options for dispersing birds; this population appears to be able to reach all habitat patches on the peninsula. Potential habitat for dispersing gnatcatchers at Palos Verdes is limited to a relatively small area (less than 900 ha of habitat), and the longest possible straight-line distance between the most distant sage scrub patches on the peninsula is less than 10 km.

Twenty-eight of the 100 juveniles banded during the Rancho San Diego study were detected within the two study areas or were reported by biologists at other nearby sites. The remaining banded juveniles either died or dispersed outside of the study area and remained undetected. Many of the resightings in the Rancho San Diego study occurred during the drought years of 1989 and 1990, when gnatcatcher population densities were relatively low and habitat was readily available near a juvenile's natal territory. Fifteen of 28 banded gnatcatchers resighted at Rancho San Diego dispersed more than one territory away from their banding location (Figure 2). Nine of these 15 gnatcatchers most likely passed through landscapes that were extensively human-modified (residential, disturbed habitats, golf course, busy roads such

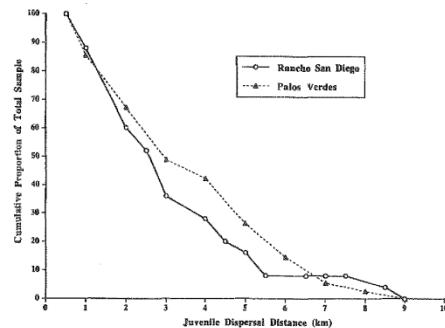


Figure 1. Dispersal-distance curves of California Gnatcatchers at Rancho San Diego ($n = 28$ individuals; Mock and Bolger 1992) and Palos Verdes ($n = 76$ individuals; Atwood et al. 1998).

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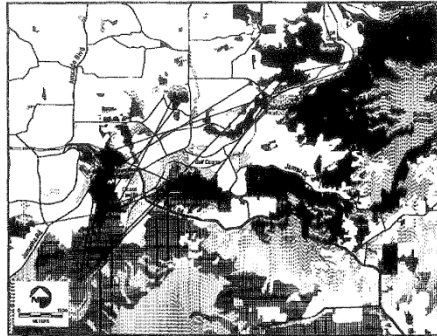


Figure 2. Straight-line dispersal routes for 15 California Gnatcatchers dispersing more than one territory away from their banding location at Rancho San Diego. Vegetation data from regional database. Cross-hatching, coastal sage scrub; vertical dashes, other natural vegetation; no pattern, developed areas; open triangles, California Gnatcatcher sightings.

as highways 54 and 94). Several survey reports have documented dispersal of juvenile California Gnatcatchers across highly human-modified landscapes (Atwood et al. 1998, Everett et al. 1993, Galvin 1998, J. Lovio pers. comm., D. Hunsaker pers. comm.). Recent detailed studies of fragmentation of sage scrub suggest that the gnatcatcher may be able to maintain itself within an archipelago of small patches of habitat (Lovio 1996).

Gnatcatcher occurrences in isolated habitat patches that have been fragmented for over 20 years also suggest dispersal across highly human-modified landscapes. Table 1 compares the straight-line dispersal distance and natural-landscape dispersal distance for the five examples. Figures 3 through 6 show general vegetation coverage of each dispersal location. The vegetation types shown are coastal sage scrub, other natural vegetation (e.g., chaparral, riparian habitats, and grasslands), and developed/agricultural land (highly human-modified landscapes). The types of highly human-modified landscapes crossed by dispersing gnatcatchers are also summarized in the table in order of relative abundance.

Palos Verdes

A banded juvenile California Gnatcatcher on the Palos Verdes Peninsula dispersed to the U.S. Navy Fuel Depot (Figure 3; Atwood et al. 1995). To reach the native vegetation at the fuel depot, the gnatcatcher had to traverse

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Table 1 Presumed California Gnatcatcher Dispersal Distances across Highly Human-modified Landscapes^a

Location	Dispersal distance (km)	Distance across modified landscape (km)	Proportion modified landscape (%)	Type of modified landscape
Straight-line route				
Palos Verdes	3.18	2.27	71	Moderate-density residential, well vegetated
Encinitas	1.10	0.79	72	High-density residential, little vegetation
Point Loma	5.83	5.28	91	Moderate- to high-density residential and commercial, poorly to well vegetated
South Park, San Diego	1.81	1.10	61	High-density residential, little vegetation
Chollas Creek, San Diego	1.73	1.26	73	High-density residential, well vegetated
Mean	2.73	2.14	74	
Natural-landscape route				
Palos Verdes	4.15	1.48	36	Parklike open space, well vegetated
Encinitas	1.26	0.34	27	High-density residential, well vegetated
Point Loma	6.54	2.99	46	Concrete channel; moderate- to high-density residential, well vegetated
South Park, San Diego	2.99	0.39	13	High-density residential, little vegetation
Chollas Creek, San Diego	2.17	0.79	36	High-density residential, well vegetated
Mean	3.42	1.20	32	

^aBased on landscape analysis (see Figures 3, 4, 5, and 6).

highly human-modified landscapes for at least 1.3 km (Table 1). This route crosses several well-vegetated residential lots, continues along a strip of coastal sage scrub and other natural vegetation, crosses a wooded estate, skirts Palos Verdes Reservoir, and crosses Green Hills Memorial Park to reach the Navy fuel depot. At least two additional individuals have been subsequently documented dispersing between isolated sage scrub patches through human-modified habitats (Atwood et al. 1998).

Encinitas

Bailey noted a dispersing gnatcatcher on 14 June 1993 in a small fragment (less than 4 ha) of chaparral and riparian habitat (Figure 4). We assume it to have been a first-year bird since no gnatcatchers inhabited the site during the previous breeding season (1992). The gnatcatcher was not resighted during two subsequent visits in June. The nearest source population is around San Elijo Lagoon. To reach the fragmented site from San Elijo

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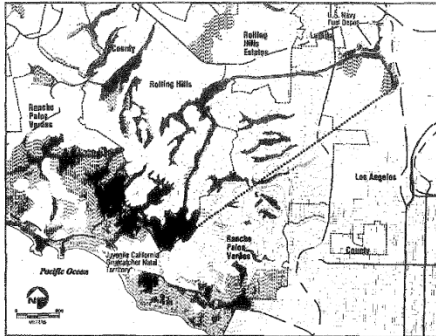


Figure 3. Straight-line (dotted line) and presumed natural-landscape routes (solid line) of juvenile California Gnatcatcher dispersing through highly human-modified landscape at Palos Verdes (Atwood et al. 1995). Vegetation from regional database. Cross-hatching, coastal sage scrub; vertical dashes, other natural vegetation; no pattern, developed areas.

Lagoon, a gnatcatcher would have to traverse a high-density residential neighborhood for at least 0.55 km (Table 1). Many of the homes in this neighborhood are well vegetated with mature ornamental trees and shrubs.

Point Loma

A California Gnatcatcher detected during focused surveys of Point Loma in 1993 was considered to be a dispersing individual (Figure 5; Everett et al. 1993). There were two previous reports of California Gnatcatchers on Point Loma in 1990 and 1992. Two gnatcatchers were detected in August of 1990, but did not remain in the area. Breeding gnatcatchers apparently have not occupied Point Loma for at least three decades and perhaps for much longer (Everett et al. 1993). Everett et al. (1993) concluded that Point Loma currently does not support a breeding gnatcatcher population and is apparently isolated by distance from likely source populations. However, W. E. Haas (pers. comm.) noted a pair of gnatcatchers in the fall of 1995 near the 1993 sighting location.

The source population nearest Point Loma is in Tecolote Canyon near the University of San Diego (Figure 5). To reach the native vegetation on Point Loma from Tecolote Canyon, a gnatcatcher would have to traverse highly human-modified landscapes for at least 4.8 km (Table 1). This route would follow the Tecolote Creek concrete drainage ditch, open space around Mission Bay, the San Diego River channel, Famosa Slough, and the

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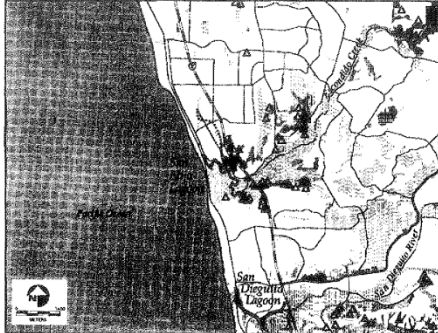


Figure 4. Straight-line (dashed line) and presumed natural-landscape routes (dotted line) of California Gnatcatcher detected in an isolated patch of coastal sage scrub in Encinitas (E. Bailey pers. obs.). Vegetation and gnatcatcher-locality data from regional database. Cross-hatching, coastal sage scrub; vertical dashes, other natural vegetation; no pattern, developed areas; open triangles, California Gnatcatcher sightings.

ridgeline of Point Loma, covered with moderate- to high-density residential neighborhoods having dense mature trees and shrubs. Two freeways and numerous major roads also would have been crossed.

South Park and Chollas Creek, San Diego

In November 1993 Bailey observed a pair of California Gnatcatchers along Home Avenue, east of Interstate 805 (Figure 6). In addition, two gnatcatchers were detected nearby in the fall of the same year adjacent to Interstate 15 near Highway 94 (RECON 1993). These patches of habitat have been fragmented for over 40 years, strongly suggesting gnatcatcher dispersal across highly human-modified landscapes (this assumes local extirpation followed by recolonization rather than the maintenance of a relict population). Nearby source populations are Chollas Community Park and Balboa Park, locations that are also habitat fragments. To reach the native vegetation at Home Avenue from Chollas Community Park, a gnatcatcher would have to traverse highly man-modified landscapes for at least 1.3 km (Table 1). This route crosses a well-vegetated high-density residential area, continues through coastal sage scrub along Chollas Creek, and crosses over a residential and commercial area to the Home Avenue site. To reach native vegetation near Interstate 15 from Balboa Park, a gnatcatcher would have to traverse highly

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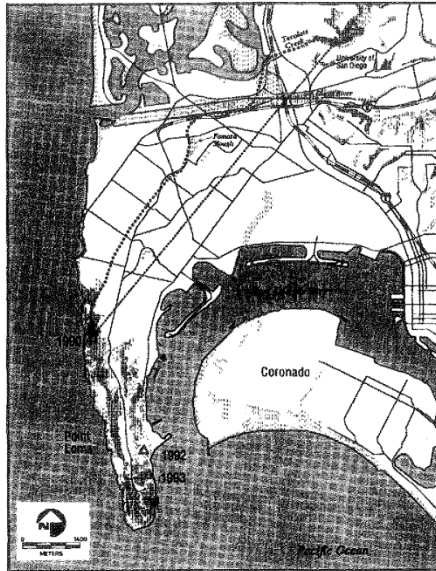


Figure 5. Straight-line (dashed line) and presumed natural-landscape route (dotted line) of California Gnatcatchers detected on Point Loma (Everett et al. 1993). Vegetation from regional database. Cross-hatching, coastal sage scrub patches; vertical dashes, other natural vegetation; no pattern, developed areas; open triangles, California Gnatcatcher sightings, with year of sighting.

human-modified landscapes for at least 0.63 km (Table 1). This route crosses both fragments of native vegetation in canyons and high-density residential areas with little vegetation. Subsequent effort by P. Unitt for the San Diego Bird Atlas has documented a pair nesting at the Interstate 15 site and three

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Figure 6. Straight-line (dashed line) and presumed natural-landscape route (dotted line) of California Gnatcatchers detected in central San Diego (E. Bailey pers. obs.) and Chollas Creek (RECON 1993). Vegetation and gnatcatcher-locality data from regional database. Cross hatching, coastal sage scrub; vertical dashes, other natural vegetation; no pattern, developed areas; open triangles, California Gnatcatcher sightings.

gnatcatcher territories within Chollas Canyon between Chollas Park and the Home Avenue site. These subsequent sightings suggest there is a large cluster of habitat islands within an otherwise urban landscape that appears to allow for demographic exchange of gnatcatchers between habitat fragments (P. Unitt pers. comm, Lorio 1996).

DISCUSSION

We conclude that existing banding studies likely underestimate the typical and maximum California Gnatcatcher dispersal distance and that California Gnatcatchers appear to be capable of dispersing relatively long distances across highly human-modified landscapes (0.5 to 5.0 km, assuming a natural-landscape route; Table 1). Gathering an unbiased sample of dispersal distances is likely to be impractical for relatively large landscapes, such as San Diego County (Barrowclough 1978, Cunningham 1986, Payne 1990). An exponential model fitted to the Rancho San Diego dispersal data predicts a maximal dispersal distance of less than 22 km for 95% of juveniles surviving to October. A circle with a 22-km radius encompasses over 1500 km² (150,000 ha). A thorough search of sage scrub within such a large area over a short time period in fall (before substantial winter mortality) would be a very costly endeavor. Some conservation biologists have recommended

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DISPERSAL CAPABILITY OF THE CALIFORNIA GNATCATCHER

against extrapolating dispersal data beyond empirically derived maximum values (Brussard et al. 1993:16); however, this conservative interpretation of spatially limited and biased dispersal data will usually result in an underestimation of a species' dispersal capability (Cunningham 1986) and ultimately lead to an overestimation of the metapopulation's vulnerability to extinction.

Although not preferred in a preserve design, "stepping-stone" dispersal corridors may be the only remaining dispersal routes between some core gnatcatcher populations of significant conservation value. Such minimal corridors appear to exist in San Diego County (e.g., Lakeside and Oceanside) and are likely to be critical linkages between substantial populations of the California Gnatcatcher. There are also relatively large islands of gnatcatcher-occupied coastal sage scrub completely surrounded by man-modified landscapes (e.g., Twin Peaks and Van Dam Peak in Poway, Rattlesnake Mountain in Santee, Dictionary Hill west of Sweetwater Reservoir). These habitat fragments cumulatively support several hundred pairs, and their conservation value may be underestimated. Dispersal studies of banded gnatcatcher populations associated with presumed stepping-stone corridors and relatively large isolated patches of coastal sage scrub are recommended.

SUMMARY

In the California Gnatcatcher, dispersal of juveniles is the means by which genetic and demographic exchange between subpopulations maintains the viability of the regional metapopulation. Studies of banded individuals in southern San Diego County and at Palos Verdes in Los Angeles County have documented median dispersal distances of less than 3 km. These measures likely underestimate the gnatcatcher's typical dispersal capacity because of the difficulty of detecting dispersed individuals in open populations and the opportunity for successful dispersal to maximum distances being truncated in small isolated patches of habitat. Spatially isolated occurrences of gnatcatchers suggest juveniles' dispersal capability is greater than empirically documented with banded individuals. Juvenile California Gnatcatchers are apparently able to traverse highly man-modified landscapes for at least short distances. Underestimation of a species' dispersal capability can lead to an overestimation of the metapopulation's vulnerability to extinction. The conservation value of "stepping-stone" corridors and of relatively large patches of gnatcatcher-occupied coastal sage scrub surrounded by man-modified landscapes may be underestimated.

ACKNOWLEDGMENTS

Field observers contributing to this study included Mary Grishaver, Kristine Preston, David King, John Lovio, Lyndon Quon, Ann Kraeger, and John Konecny. Don Hunsaker reported resightings of two long-distance dispersers. Jon Atwood, Carol Reynolds, Sophia Tsai, Michael Fugagli, Philip Unitt, and William E. Haas provided relevant unpublished field observations. Graphics and geographic-information-system support was provided by the San Diego office of Ogden Environmental and Energy Services. Funding for this study was provided by Home Capital Development Corporation, the Weisgarten, Siegel, Fletcher Group, Inc., Skyline Wesleyan Church, and Ogden Environmental and Energy Services. Review of the manuscript was provided by John Rutenberry and Philip Unitt. The authors are grateful to all of the above individuals and organizations for their contributions to this study.

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DISPERSAL CAPABILITY OF THE CALIFORNIA GNATCATCHER

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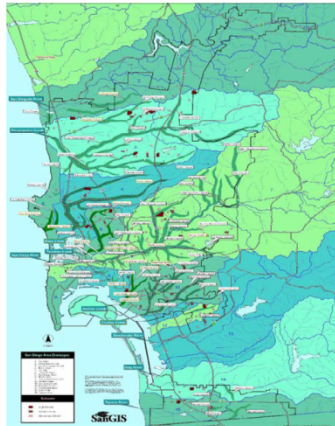
AUBURN CREEK AND AUBURN CREEK CANYON

I. LOCATION AND SETTING:

Auburn Creek and Auburn Creek Canyon are natural features located in the United States of America, State of California, County of San Diego, Charter City of San Diego, and Community of City Heights, CA 92105. The Auburn Creek and the Canyon it created roughly flow from North of University Avenue, at 52nd Street, to Federal Boulevard, at Home Avenue. The Auburn Creek had a very extensive flood plain that has largely been filled in or channelized. Auburn Creek's flood plain was the majority of the Fox Canyon neighborhood and valley that contains Home Avenue.

The Chollas Canyon is one of several east west parallel canyons in Mid City – Mission Valley. Manzanita – Lexington Canyon, Auburn Canyon, and Chollas Canyon. Manzanita Canyon, Auburn Canyon, and Chollas Canyon are part of the Chollas Creek watershed. The watershed begins along the south side of El Cajon Boulevard ridge and flows south until it cuts out east west canyon channels that connect and lead to the San Diego Bay. The La Nacion earthquake fault system influences this watershed.

Auburn Creek is a tributary of the North Chollas Branch of the Chollas Creek that all drain as the Chollas Watershed into San Diego Bay. The Auburn Creek and Canyon system is about three (3) miles in length. A map of the Chollas Watershed is presented below:



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Another presentation from the San Diego GroundWorks nonprofit is presented below:



The 1904 USGS map of San Diego is presented at: <https://www.sandiego.gov/sites/default/files/legacy/city-clerk/pdf/historicalmaps/sdusgsma.pdf>. It is interesting to note that references to Chollas on early maps are to "Las Choyas".

Auburn Creek was designated by action of the San Diego City Council as a natural water body during its deliberation on the Federal Emergency Management Agency (FEMA) Flood Plan, on October 7, 2008- Agenda Item 109. City Council, after receiving my testimony and the attached letter, of the same date, took action as follows:

"COUNCIL ACTION: (Time duration: 5:29 p.m. — 5:39 p.m.) MOTION BY FRYE TO ADOPT WITH DIRECTION TO STAFF TO INCLUDE AUBURN CREEK IN THE FLOOD MITIGATION PLAN AND ALL COMMENTS MADE BY MR. JOHN STUMP FROM HIS LETTER DATED OCTOBER 7, 2008, TO BE ANNOTATED TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY. Second by Falconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins not present, Young-yea, Maisenschein-yea, Frye-yea, Madaffer-not present, Hueso-yea." (Minutes 10-7-2008, #10)

Subsequently, the San Diego Planning Commission took similar actions to designate and name Auburn Creek.

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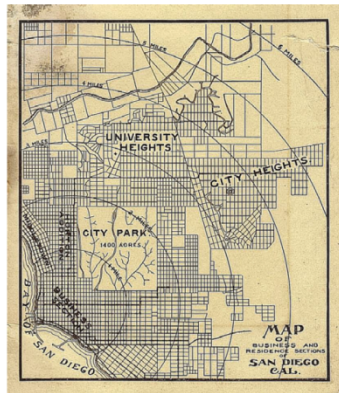
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Auburn Creek gains its name from the subdivision street names at its origin. City Council took this action to preserve and enhance the well-established historic nature of this creek; its continual human use for recreational and gathering uses; and in recognition of the valuable habitat it provides to listed and endangered species of plants and animal. Nearly every CEQA Environmental Impact Report and study of this water body has identified its historic use by Native Americans; the presence of valuable plants and animals along and within its shores; and the current and future uses of this creek to provide a needed recreation setting for needed parks and open spaces. (Please see the City studies for Wightman Park, Fox Canyon Park, and the Central Police Garage & SD City Schools studies for the Mary Fay Elementary School). Auburn Creek had sufficient habitat value, for California Gnatcatchers and other species, that the City of San Diego set aside some 18 acres of special environmental preserve, adjacent to the Auburn Creek to mitigate for the impacts from the construction and operation, of the Police Central Garage, at Home Avenue and Federal Boulevard. Auburn Creek is unique amongst the tributaries of the Chollas Creek, as its source is a spring. Auburn Creek is the defining water feature of City Heights. Auburn Creek provides City Heights its natural link to the San Diego Bay. [Letter, May 11, 2010, CHOLLAS RESTORATION, ENHANCEMENT AND CONSERVANCY to San Diego Planning Commission, RE: AUBURN CREEK designation in proposed Master Storm Water System Maintenance Permit (Item # 6)]

Presented below is an early 20th century map of the City of San Diego street system showing both the incorporated City of San Diego and the unincorporated portions of San Diego – east of Boundary Street? Auburn Creek begins approximately 5 miles east of the San Diego Bay.



The Auburn Creek headwaters were not part of the original City of San Diego boundaries but were annexed into the City of San Diego by vote of the residents of both the City of San

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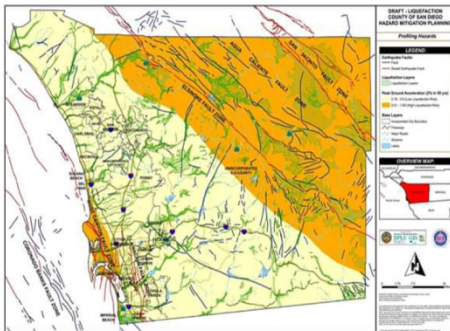
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Diego and then independent City of East San Diego. SEE: Union Tribune Newspaper <https://www.sandiegouniontribune.com/news/150-years/sd-me-150-years-december-30-htmktory.html>

The Auburn Creek begins North of University Avenue just Southwest of the Colina Del Sol Park. The spring source is from the La Nacion earthquake fault. See: ARCH 01, 1973, *La Nacion Fault System, San Diego, California*, ERNEST R. ARTIM, CHARLES J. PINCKNEY, GSA Bulletin (1973) 84 (3): 1075-1080. [https://doi.org/10.1130/0016-7606\(1973\)84<1075:LFSSD>2.0.CO;2](https://doi.org/10.1130/0016-7606(1973)84<1075:LFSSD>2.0.CO;2) The fault causes a small weeping spring that keeps Auburn creek moist throughout the year.



The California Environmental Quality Act (CEQA) study for the proposed Mary Fay Elementary School, conducted by the San Diego Unified School District See: **PROPOSED MARY FAY ELEMENTARY EIR**, SDUSD. The study concluded that the initial preferred school site should be relocated because of the earthquake fault and the toxic materials leaking into the Auburn Creek aquifer from the former San Diego Pipe use- Now San Diego Mission Resale Store. The subject property that became Wightman Park was purchased as a result of an Inverse Condemnation action brought by property owner, of a motel housing complex, because the property flooded. SEE: Meztker v City of San Diego, CREAC v City of San Diego, **INTERIM REPORT NO. 14, THE ONTARIO AVENUE CONNECTION AND FOX CANYON PARK**, REPORT OF THE SAN DIEGO CITY ATTORNEY MICHAEL J. AGUIRRE, 27 February 2007, 56 pages http://sdcityattorney.com/interim_reports/IR-14_Fox_Canyon_Park_20070227.pdf

The earthquake fault is also present in the Ridgeview neighborhood. The major high voltage electrical power transmission lines follow this earthquake fault. The high voltage lines cross Home Avenue, continue into the Ridgeview subdivision -between

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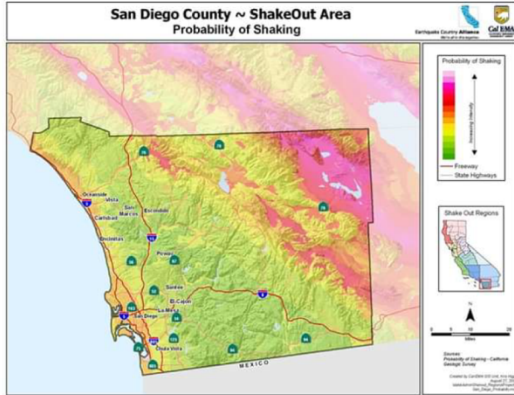
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Wendell and Clematis Streets. These large electrical transmission lines then enter into the Chollas Canyon, created by the North Chollas Creek tributary, of Chollas Creek.



On the South side of University the CEQA study for the Wightman Street Park - <https://ceqaregnet.cnr.ca.gov/2010041108/> studied Auburn Creek extensively as it is a defining and limiting feature of this park. This study identified flooding conditions and the location of toxic materials and water conditions. SEE: [Fox Canyon Dropped, Voice of San Diego, November 27, 2006](#). "The City Council ended its pursuit of developing a park and road in Fox Canyon on today, deciding instead to settle a legal challenge brought against the [controversial project](#). A community group called Friends of Fox Canyon sued over the [council's decision in March](#) to approve an environmental review for the City Heights park-and-road proposal. The review said that the extension of Ontario Avenue and construction of a small, adjacent park would have a minimal impact on the surrounding environment, which includes Auburn Creek. The study allowed the park-and-road proposal to move forward in the planning process. The council voted Tuesday to withdraw its approval of the study after tentatively agreeing to those terms in a private meeting this October. Councilman Jim Madaffer, whose district includes Fox Canyon, said he reluctantly supported settling the lawsuit, even though the agreement ended up killing the project he has very visibly championed. He blamed "community politics, the struggle for power and greed" for the proposal's demise. Only Council President Scott Peters opposed the settlement. The council will discuss redirecting the state grant the city received for Fox Canyon for another area of the City Heights neighborhood, on Wightman Street, next week. "Also, [A Park? A Road? By Joe Deegan, Jan. 11, 2007](#) <https://www.sandiegoreader.com/news/2007/jan/11/park-road/#>

City of San Diego City Attorney Michael J. Aguirre, issued an extensive report on the Fox Canyon and Auburn Creek area as a result of the above cited dispute. The report details

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schemes to misuse State and local funding and overdevelop Auburn Creek and its water shed.
SEE: **INTERIM REPORT NO. 14, THE ONTARIO AVENUE CONNECTION AND FOX CANYON PARK**, REPORT OF THE SAN DIEGO CITY ATTORNEY MICHAEL J. AGUIRRE, 27 February 2007, 56 pages http://sdcityattorney.com/Interim_Reports/IR-14_Fox_Canyon_Park_20070227.pdf

Prior to annexation of the Auburn Creek / Fox Canyon area into the City of San Diego, it was an entertainment and camping area just outside of the City of San Diego. The Auburn Creek formed a small lake or pond at this area. The University Avenue trolley terminated close to this site and several amusement features were built in this area – including the Mission Ballroom, Tower Bar, and Egyptian Garage. Overtime, the amusement nature of Auburn Creek was traded for more extensive housing development and the Auburn Creek channel was moved, relocated, channelized or placed into box culverts.

Auburn Creek regularly floods because its natural flood plain has been built over, the creek placed in confined channels or box culverts and the amount of water shed to it increased because much of the watershed has now been developed with impervious structures, surfaces, and roadways.

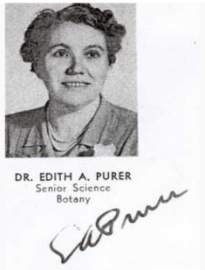
II. LISTED FLORA FAUNA :

The Chollas Creek watershed has a long prehistoric human occupation and was a valuable human habitation resource area prior to the arrival of the Spanish, beginning with the Pedro Fages occupation. The transit of indigenous peoples from the Bay inland along the Chollas watershed was noted by Conquistador Pedro Fages.

Current environmental reviewers often mistakenly begin with a prejudice that the Chollas watershed area could not contain any valuable habitats or listed flora and fauna species because the area has long been urbanized and developed. By the beginning of the 20th Century much of the first mesa of the Chollas watershed had been scraped and leveled for subdivision development. Pictured is the intersection of University Avenue at Euclid by Auburn Creek.



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Edith Purer 1948

"San Diego County vernal pools were largely ignored in the early 1900's. The only attention they received was from thirsty livestock and ranchers who filled them in with dirt while attempting to level their land. Edith A. Purer presented one of the first scientific papers fully describing the habitat to the Ecological Society of America in 1937. A science teacher at San Diego's Hoover High School, Purer spent her summers studying the county's natural history and became San Diego's first female professional ecologist. She was also the consummate citizen naturalist.

Purer's survey of San Diego's Linda Vista Mesa described "thousands of pools filling the small depressions of the mesa, intercepted throughout by low, rounded hummocks." The key words here are "thousands of pools." Within forty years of Purer's study none remained, having been filled in and covered over by the burgeoning growth of an expanding city. The remaining collections in the entire county would have disappeared as well if the scientific and environmental communities had not belatedly rediscovered them in the late 1970's and publicly revealed the treasure trove of specialized life forms living there. Half the plant species growing within California's vernal pools are found nowhere else on earth. This compares to 24% of all California plants being endemic, a remarkably large number itself.

In a sudden explosion of interest, vernal pools were regarded as deserving protection and endemic species were listed as endangered or sensitive. Unfortunately, a few developers did what they could to avoid the new restrictions by bulldozing pools on their land before the laws took effect. Pools continue to be destroyed today despite their legal protection. The few remaining represent a tiny fragment of a once large network of ephemeral wetlands punctuating the chaparral like liquid sapphires.

Before development there were an estimated 28,500 acres of vernal pool habitat in San Diego County. Mesa tops, like the one where San Diego State University now rests, were covered with so many pools that aerial photographs taken back in 1928 look like carpets textured with thousands of tiny, evenly spaced dots. Those are all gone now. When the county was last inventoried in 1986, only 7% of the original vernal pool habitat remained. Fewer than 2,400 pools existed in 2001. Of those surviving, some are temporarily protected in restricted areas like the Miramar Air Station or Camp Pendleton, but their futures are still uncertain; others remain vulnerable because they exist on private land." **Vernal Pools: Liquid Sapphires of the Chaparral, California Chaparral Institute** <http://www.californiachaparral.com/vernalpools.html> SEE: ECOLOGICAL STUDY OF VERNAL POLLS, SAN DIEGO COUNTY; Edith A. Purer, Hoover High School, Ecological Society of America, Volume 20, No. 2, pp 217-229

Fortunately for the Mid-City Heights area and the Chollas Creek watershed in particular, the Chollas Creek flood plain and canyons were not as quickly developed as the dry mesa flat tops. The Chollas Creek watershed preserved significant habitat for listed flora and fauna. California Environmental Quality Act (CEQA) and National Environmental Protection Act (NEPA) reports and studies have identified that the Chollas Watershed contains endangered and listed species, particularly in its canyon bottoms and south facing slopes. Notable studies are the Chollas Canyon Master Plan – Sunshine Berardini Fields; Fairmount /47th Street Bridge overcrossing; Central Police Garage, K-9 and Police Firing

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Range, Mary Layton Fay Elementary School; Webster Elementary School; City Heights Redevelopment Project Area; and SR-15 Freeway. All of these studies identified that the Chollas watershed provided valuable habitat.

A study on the distribution of the listed California Gnatcatchers identified a population in Chollas Canyon, along the North Chollas creek, off Federal Boulevard. SEE: DISPERSAL CAPABILITY OF THE CALIFORNIA GNATCATCHER: A LANDSCAPE ANALYSIS OF DISTRIBUTION DATA, ERIC A. BAILEY and PATRICK J. MOCK, Ogdan Environmental and Energy Service Company, 5510 Morehouse Drive, San Diego, California 92121 (current address of Mock, as corresponding author, Dames & Moore, Inc., 9665 Chesapeake Drive, Suite 201, San Diego, California 92123).

The above cited CEQA/NEPA studies/reports and the above cited Gnatcatcher study led to the dedication of an Environmental Reserve along the Auburn Creek /Canyon, at Home Avenue and Federal Boulevard, above the San Diego Police Campus. Further, a Multiple Species Habitat has been established along 47th Street in the Chollas watershed. SEE: [CITY OF SAN DIEGO VERNAL POOL HABITAT CONSERVATION PLAN](#), October 2017, https://9670f26306f0ac722eb1-b8c0720b767c6949515361a18a97371.s1.cf2.rackcdn.com/uploads/website_attachment/attachment/161/vph-cp.pdf

III. INDIGENOUS PEOPLES' HABITATION:

Indigenous peoples have long inhabited the Chollas water shed and Auburn Creek / Canyon area. Pedro Fages, Spanish explorer and founder of the Presidio of San Diego wrote a report letter excerpted below:

"Your Illustrious Lordship-My dear Sir: The lack of people and the illnesses which God has deemed to send us have been the cause of many setbacks because the objects of greatest weight and the affairs of major consideration, all demanding attention and care, have left little room for those of less importance. I do not wish to say by this that the matters for which your Excellency commissioned me in the instructions that you saw fit to dictate are of little consequence, but Your Excellency also knows that their nature requires tranquility and serenity of soul for them to be carried out. These are benefits we have little enjoyed here. Having recently arrived at the Port and constructed our quarters (work in which Don Pedro Fages and I did not excuse ourselves), we applied all attention to the alleviation of the poor sick ones.¹⁶ The number of these was quite high, and those who were still on foot was very small. Many are the things to be attended to at one time: the care of our own defenses occupied some and on occasions everyone; the rations and attendance of the sick occupies others; also the firewood and water, to which is added the bringing from on board that which is required for sustenance and other purposes. These are necessary and indispensable tasks which we know are fatiguing to the people who are already weak and thin, wracked by the scurvy of which not even I am exempt. In order to recover from it and not to find ourselves in the extreme danger that we began to fear, which was for not one man to remain, we gave a hand to all the work, performing all services even to the lowest ministrings of a nurse. As soon as the first portion of the land expedition had arrived,¹⁷ we changed our quarters to a better site adjacent to the water source even though it was some distance from the ships. With the arrival of the new people, we no longer had the inconvenience of having to separate the forces. The males facilitated the portage and helped us achieve that which was appropriate for the greatest utility and comfort for all. In the new quarters, using the same precautions as in the first, we also built another pole stockade for our security and put up some large sheds in order to cover the provisions and equipment of the expedition.

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In the midst of these tasks and the inconvenience of our quarters, I have not neglected to gather together the necessary materials to draw up later, when time permits, the charts, maps, and reports that Your Excellency commissioned me to prepare for the correction of the older sailing plans and charts which, according to what I am experiencing, differ somewhat from the truth and suffer serious errors. The first is that the Port of San Diego is not found nor ought to be looked for in 33 degrees as Vizcaino said;²⁰ much less in 34 where the Pilot Cabrera Bueno has it situated;²¹ but rather in 32 degrees 32 minutes of latitude under which, with little difference, lies the point or extreme of the hill [Point Loma] which encloses said port on the west side.²² This hill, which Cabrera Bueno gives as one of the signs of the Port of San Diego, is a part of an irregularly shaped but very long peninsula. To the north northwest said peninsula also forms the other part of which Torquemada speaks [False or Mission Bay] and which is known to be very full of sandbars.²³ There might be some channel between these where ships of light draught could enter. The same hill [Point Loma] might be two leagues in length and runs approximately north northwest and south southeast along the same course as runs the east coast of the port for more than four leagues at eye judgment.

One cannot enter the port with the wind to the northwest, but coming in with an outside tack one can anchor on the point and afterwards lie in wait in order to catch the protection of the hill. From this point to the east coast there are two leagues of crossing, but nevertheless one cannot ply to windward between the two because there are so many sandbars along that coast that whoever tries it is exposed to running aground.²⁴ The surest way to enter is to reach at about the distance of a pistol shot from the hill and west coast until arriving at Ballast Point, which is good for ballast, and where the ships are protected from the winds of the sea. The terrestrials are not capable of much discomfort, only the northwind comes across the flat and open land. Ballast Point and another point on a very long and narrow tongue of land which comes out from the east coast [North Island] form a mouth of one-fourth league of width where the sea enters from different directions; this is what [Cabrera] Bueno calls estuaries; these are ports of immense capacity but little depth. Our packetboats run very far inside at high tide for the purpose of getting as close to the water hole as possible. We did not achieve this as we had hoped despite untiring effort and there remained a distance of one league or less from the water hole. The taking on of water in this port will always be difficult, and in time of drought as now, when the water does not run in the wash, it will be impossible. Without having mules to do the work as we do it today, that is carrying the barrels from the well from which the water is drawn to the shore of the sea more than one-quarter league distant to where the launches receive it. The water of the wells which were dug by the men of General Vizcaino on the tongue of land or sand of which Torquemada spoke is very salty and only in an urgent case of necessity is one able to drink it and then with danger to his health.²⁵ The attached sketch serves to clarify the idea which I am giving Your Excellency of this port. It is the same as the one I made of it after inspecting the land. I am not claiming it to be an exact plan since, as I explained to Your Excellency, I have not had the time nor the means to prepare it. To make it with precision would require many days of hard work.²⁶ Regarding the settlement of this land, the character and industry of its inhabitants and nature of the country, I will say to Your Excellency that what we have seen and experienced agrees with the account of Torquemada. The Indians are docile but inclined toward robbery and thievery; they covet everything and fall in love with anything as soon as they see it. They are lazy idlers and not very industrious. I have seen no other evidence of dexterity but their nets, which they weave very well from a thread that looks like hemp, but it is of ixtle fiber which they get from a very small species of maguey or mescal. These nets serve as a belt and, at the same time, as an instrument with which to fish and hunt. In the woods they catch birds and little rabbits with them. They also make purses or very large sacks woven of rather fine net. The men are entirely naked. The women cover their private parts with double nets cinched at the waist and reaching to the middle of their thighs. At times they also use a kind of little cape made of strips of fur interlaced and twisted. All randomly stain and paint themselves of various colors, among which I have observed they prefer that of red and ochre. Some use lead-colored black and they look hideous. These are people of little ambition and they recognize our superiority in arms and in all the rest. They have bestowed great affection upon Don Pedro Fages and they also respect him very much.

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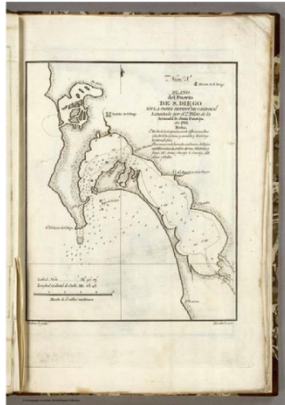
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They have invited him at various times to be with their women, an expression of friendship that the rest have not merited. They frequently come to our lodging from all the neighboring rancherias around the port, on which occasions they have traded some nets or otter furs in exchange for cloth or handkerchiefs. The otters must be rare or they do not dedicate themselves much to hunting them because they have brought few furs despite our having asked by signs for them repeatedly.

I cannot tell Your Excellency exactly how many rancherias there are in the vicinity of these surroundings; but I believe there are no less than ten. Among these are some which are densely populated according to what I infer from the number of people who on occasions have been seen together.

They are never without their bows and arrows, which are the only arms that they use. In the beginning, when we had just recently arrived and they believed that our guns were some simple sticks, they wanted to exaggerate the strength of their arrows, which were armed with very sharp flints. But Don Pedro Pages, disposed on all occasions to win praise and show himself superior to all of them, ordered that a piece of leather that might serve as a target be placed at a convenient distance. He had them discharge their arrows and upon their seeing the mild effect that they had on the leather, he then ordered the most dexterous soldiers to shoot at the same target. Upon hearing the noise and seeing the destruction so close at hand, the Indians changed their expressions and some of the more timid ones left, giving very clear signs of their surprise and fear.

The huts on the rancherias in which we have been are round and finished in a pyramidal form covered with branches and earth. In each hut one or many families live, or better sleep, because by day all travel through the woods or go to the bay to look for sustenance." Copy of a letter written by Don Miguel Costansó from the Port of San Diego dated the 28th of June, 1769 [to José de Gálvez].²⁵ San Diego History Center, <https://sandieghistory.org/journal/1975/april/pages/>



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The Pedro Fages exhibition had intruded into the coastal paradise of the indigenous Kumeyaay peoples. "Evidence of settlement in what is today considered Kumeyaay territory may go back 12,000 years.^[1] 7000 BCE marked the emergence of two cultural traditions: the California Coast and Valley tradition and the Desert tradition.^[2] The Kumeyaay had land along the Pacific Ocean from present Oceanside, California in the north to south of Ensenada, Mexico and extending east to the Colorado River.^[3] The Cuyamaca complex, a late Holocene complex in San Diego County is related to the Kumeyaay peoples.^[4] The Kumeyaay tribe also used to inhabit what is now a popular state park, known as Torrey Pines State Natural Reserve.^[5]

One view holds that historic Tipai-Ipai emerged around 1000 years ago, though a "proto-Tipai-Ipai culture" had been established by about 5000 BCE.^[6] Katherine Luomala suggests that the "nucleus of later Tipai-Ipai groups" came together around AD 1000.^[7] The Kumeyaay themselves believe that they have lived in San Diego for 12,000 years.^[8] At the time of European contact, Kumeyaay comprised several autonomous bands with 30 patrilineal clans.^[9]

Spaniards entered Tipai-Ipai territory in the late 18th century, bringing with them non-native, invasive flora, and domestic animals, which brought about degradation to local ecology. Under the Spanish Mission system, bands living near Mission San Diego de Alcalá, established in 1769, were called Diegueños.^[10] After Mexico took over the lands from Spain, they secularized the missions in 1834, and Ipai and Tipai lost their lands; band members had to choose between becoming serfs, trespassers, rebels, or fugitives.^[11]

From 1870 to 1910, American settlers seized lands, including arable and native gathering lands. In 1875, President Ulysses S. Grant created reservations in the area, and additional lands were placed under trust patent status after the passage of the 1891 Act for the Relief of Mission Indians. The reservations tended to be small and lacked adequate water supplies.^[12]

Kumeyaay people supported themselves by farming and agricultural wage labor; however, a 20-year drought in the mid-20th century crippled the region's dry farming economy.^[13] For their common welfare, several reservations formed the non-profit Kumeyaay, Inc.^[14] SEE: Kumeyaay. From Wikipedia, the free encyclopedia, <https://en.wikipedia.org/wiki/Kumeyaay>



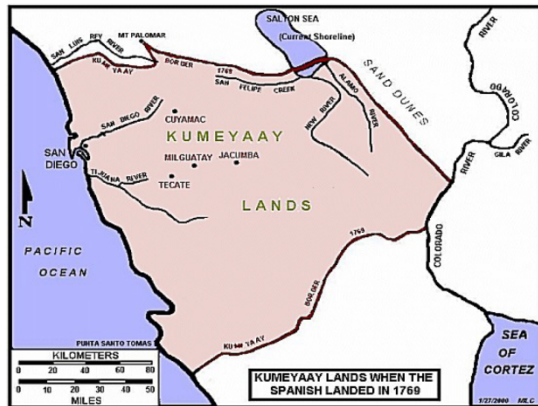
SEE: KUMEYAAAY TERRITORY, THE KUMEYAAAY TRIBES GUIDE of Southern California
Tribal Bands of The Kumeyaay of Southern California, www.kumeyaayinfo.com

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Several CEQA/NIEPA reports / studies have identified KUMEYAA'Y occupation of the Chollas watershed and specifically the Auburn Creek /Canyon area. During the excavation for the SDDP campus at Federal Boulevard and Home Avenue indigenous people's remains and artifacts were uncovered. The surveys and studies done for the Chollas Canyon Master Plan – latter Susan Berardini Park - <https://www.google.com/maps/d/viewer?mid=1DN5PaGy41-SeXUj7Q9R47A3m2NaW4do&ll=32.721211,70.0000001%5C-117.10087120000003&z=15> identified significant Kumeayaa habitation and long term use. The exact nature and location of the Kumeayaa habitation and use features have been kept confidential to preserve their nature. SEE: **CHOLLAS CANYON MASTER PLAN**, PELA, City of San Diego – CDBG Grant Council District 4 Rev. George Stevens, Councilman.

IV. STORM WATER, IMPAIRED WATERWAY, & FLOODING:

The Auburn Creek periodically floods the land and structures of City Heights. Flooding generally occurs because of overbuilding of structures, including road surfaces, with impervious surfaces that increase the amount of run off, in the watershed AND outdated flood control and creek road under crossings at key Auburn Creek sections. The City Storm Water team appears to not updated facilities to match the increased channel flow volumes, because of more accelerated

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run off or has not taken a comprehensive review of the design flaws that now exist at several key flood prone locations. The Auburn Creek flood incident locations are as follows:

- A. **University Avenue Undercrossing;**
- B. **Wightman Street Park Undercrossing;**
- C. **Fairmount Street Undercrossing; and**
- D. **Federal Boulevard Undercrossing;**

There may be other occasional flood incident locations but the above are the most frequent and consistent causing human health and safety hazards and damage or loss to property. Flooding at these locations also may cause collateral damage from mold and the pollution down stream of additional undesirable materials washing into the Chollas Creek system and thus the San Diego Bay. A discussion of each of the four consistent flood incident locations follows:

A. University Avenue Undercrossing:

The undercrossing provided for the storm water runoff generated north of University Avenue is substantial. The area north of University Avenue to the mid line of El Cajon Boulevard, the watershed break, has been consistently urbanizing for more than a century. At first glance an aerial view of the Colina Del Sol neighborhood shows substantial open green space from the Colina Del Sol Park and Golf course; but little of this land is used as infiltration zone for storm water. A ground level inspection of the undercrossing challenge comes when viewing the virtual dyke necessary to raise up University Avenue between Oak Crest Drive and 51st. This dyke raises up University but interferes with the remnant Alta Dena Canyon between these streets.

On the South side of the university Avenue dyke is a bit of the Auburn Creek Alta Dena canyon bracketed by Auburn Park apartment complex, to the east, and the Palms apartments to the west. The storm water is funneled to a modified Auburn Creek channel constructed to maximize usable pocket park space in Wightman Park, at Wightman Street.

Prior to the construction of the Auburn Park apartments the area flooded because of claims of inadequate undercrossing designs. Although the capital improvement redo of the University Avenue under crossings had long been a planned project these modifications have not occurred. Major and consistent flooding at the current site of the Wightman Street Park were the reason for the City's acquisition of the park site after settling a suit brought on the basis of inverse condemnation by the rental property owner Metzger. The engineering and hydrology evidence presented for this action clearly identified the design flaws for the handling of this storm water. SEE: Metzger Properties v. City of San Diego. Also see CREAC v City of San Diego and **INTERIM REPORT NO. 14, THE ONTARIO AVENUE CONNECTION AND FOX CANYON PARK**, REPORT OF THE SAN DIEGO CITY ATTORNEY MICHAEL J. AGUIRRE, 27 February 2007, 56 pages http://sdcityattorney.com/Interim_Reports/IR-14_Fox_Canyon_Park_20070227.pdf

The flooding that occurs because of the volumes and mis design / mis match have not been corrected and the **University Avenue Undercrossing** regularly floods the apartments units to the east of Wightman Street Park. During storm events apartment dwellers place sand bags in front of their doors but water often enters; so the apartments must be re dry walled. [It is unknown, but suspected, that these apartments may have significant mold and fungus because of repeated flooding.] Storm water passes across these properties on to Wightman Street adding to the substantial flow trying to reenter the Auburn Creek, directly south of Wightman Street Park, the low spot.

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Solutions possible for addressing the flooding from the **University Avenue Undercrossing** could include reducing the amount and speed of run off coming from north of University Avenue; redesign of the actual undercrossing to runoff directly to the south side of Wightman Street; and purchasing and demolition of the flooding apartments to diminish the health hazard and increase the flood plain park area by expanding Wightman Street Park to the east.

B. Wightman Street Park Undercrossing:

The flooding that regularly occurs at Wightman Street, directly across from Wightman Street Park is an accumulation of too much runoff storm water, at this low spot, from the east, west, and north AND a mis match of the both the undercrossing cross section and the street storm drain, on the south side of Wightman street. Both the street storm drain inlet and the Auburn Creek undercrossing lead into an ad hoc rectangular concrete channel with a bend, at this location.

During storm events the residential properties sand bag to attempt to prevent road wash storm water entry and they operate permanent sump pumps that drain into the south Auburn Creek channel. These residential properties are likely often wet and could have health hazards from mold.

There is an additional flooding hazard at this location. The flooding makes normal pedestrian travel across this school route impassible and the drowning hazard is significant. The very large street storm drain inlet is obscured and a child or a frail person could easily be swept into this obscured inlet.

Downstream, to the south of Wightman Street, residential units in the flood plain are frequently flooded and again could be subject to habitability hazards, including mold. The Auburn Creek flows along a poorly defined channel to the paper Ontario Street and Landis Street before reentering the Alta Dena Canyon system. This area regularly floods and had been overtopping the sanitary sewer man holes; so that mixing of sewer waste and storm water regularly occurred. Recently the City raised the manholes to attempt to avoid this overtopping and mixing. The area has a very bad appearance and is a regular site for dumping and crime. SEE: Regional Water Quality Board order concerning TMDL of E-coli in Auburn Creek; CREAC v City of San Diego and **INTERIM REPORT NO. 14. THE ONTARIO AVENUE CONNECTION AND FOX CANYON PARK**, REPORT OF THE SAN DIEGO CITY ATTORNEY MICHAEL J. AGUIRRE, 27 February 2007, 56 pages http://sdcityattorney.com/Interim_Reports/IR-14_Fox_Canyon_Park_20070227.pdf

Solutions possible for addressing the flooding from the **Wightman Street Park Undercrossing** should include immediate elimination of the pedestrian drowning hazard On Wightman Street and evaluation of the habitably of the flooding residential units adjacent to and immediately south of Wightman Street, low spot. The actual undercrossing should be re designed so as to carry storm water into an adequately designed open channel along Ontario and Landis Streets as an infiltration park swale.

Comment [J51]:

The Alta Dena Canyon leading up to the Euclid Street undercrossing must be carefully designed and sized. Care must be taken to avoid flooding of adjacent residences and the two or more schools and day care centers.

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Flooding has not been regularly observed at the triple intersections of the two Euclid Avenues and Home Avenue; but this continuation of the Auburn Creek Canyon should be carefully evaluated as traffic calming and pedestrian safety measures need to be made at this triple convergence as there have been pedestrian injuries and deaths here. SEE: [Zero Traffic Related Fatalities and Severe Injuries by 2025](https://www.sandiego.gov/vision-zero/Fiscal%20Year%202020%20Proposed%20Budget_Volume%20III_Capital%20Improvements%20Program_City%20of%20San%20Diego/https://www.sandiego.gov/sites/default/files/rb_v3tsw.pdf), City of San Diego, [https://www.sandiego.gov/vision-zero, Fiscal Year 2020 Proposed Budget, Volume III, Capital Improvements Program, City of San Diego https://www.sandiego.gov/sites/default/files/rb_v3tsw.pdf](https://www.sandiego.gov/vision-zero/Fiscal%20Year%202020%20Proposed%20Budget_Volume%20III_Capital%20Improvements%20Program_City%20of%20San%20Diego/https://www.sandiego.gov/sites/default/files/rb_v3tsw.pdf) "Transportation & Storm Water City Heights Pedestrian Imp Phase 2 / S18009 at pages 446-447; Transportation & Storm Water Euclid Avenue & Home Improvements / S00886 at page 453; and Transportation & Storm Water Minor Bike Facilities / ALA00001 at page 471. Further, SEE: CEQA and design comments concerning the **CHARLES LEWIS III Park**, on Home Avenue – specifically traffic crossing, signals, and safety signage. The traffic signal, improved crossing and speed limiting signage was called out as a pedestrian crossing death occurred at this location during the park's planning.

C. Fairmount Street Undercrossing

The flooding that regularly occurs at Home Avenue, east of Fairmount Street is likely caused by a combination of too much high speed storm water volume exiting nearly a half mile of constrained concrete box culvert into a short obsolete section of open concrete channel and then attempting to reenter a too small cross section outdated undercrossing at Fairmount Avenues. The high speed water over tops the open channel and floods across the intersection of Fairmount and Home Avenues. Existing Home Avenue storm drains cannot drain down and away storm water until the higher Auburn Creek channel falls below overtopping flood levels.

Flooding of these adjacent properties and intersections is amplified and intensified because this intersection is the low section taking all the surface and storm drain waters from the east Auburn Creek; the north Fairmount Avenue drainage; and the south Fairmount Avenue drainage. The Maple Street storm water drain, to the north has failed and needed reconstruction.

Further, the north side of Home Avenue for nearly one half to two thirds of a mile lacks any pedestrian sidewalks, curbs, or gutters. Storm water flows down the north hill sides and rapidly collects and drains down 46th Street, Laurie Lane, Roseview Place, Maple Street / Laurel Street, the 46th Street **Couplet**, Menlo Avenue, and 47th Street.

On the south side of Home Avenue, the apartment complexes, sitting above the box culvert and along the parallel to Home Avenue – 46th Street contribute to surface flow collection onto Home Avenue, at this low spot flood location. The intersection is designed to flood and floods frequently. SEE: Maple Street Drain Reconstruction, City of San Diego, CIP project. Report and CEQA Review and Exemption.

Recently, the applicant for a change of use at 2281 Fairmount Avenue, San Diego, CA 92105 presented a **Preliminary Hydrology Study for 2281 Fairmount Avenue**, prepared by K&S Engineering, Inc., July 26, 2018 and a **Site Specific Letter of Map Amendment**, prepared by Federal Emergency Management Agency, dated October 3, 2018. These documents appear to present information to demonstrate that the subject project property may be above the general Flood Plain surrounding Auburn Creek. These materials and documents may not have addressed the storm water that flows off of the subject property to

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the Home Avenue flood area. Further, the materials appear not to have been prepared to address the flood conditions caused by the combination of the open trapezoidal concrete channel which is on one half of the subject project property. The flood condition contribution from 2281 Fairmount Avenue should be studied further and the adjacent properties be required to participate in the remediation of the flood conditions that flow off of these properties.

The volumes of water that flows off of the hillside property at 2281 Fairmount and from the open trapezoidal concrete channel of Auburn Creek needs to be calculated ["Q"]; so that its contribution to the Home Avenue flood conditions determined and mitigated.

The **HYDRAULIC DESIGN MANUAL**, County of San Diego Department of Public Works, Flood Control Section September 2014, sets standards for channel designs at section 5. The apparent design flaw of this short channel section is that high velocity flood waters exit a closed contain channel into an open trapezoidal channel and then are confronted by an undersized undercrossing, at Fairmount Avenue

Solutions possible for addressing the flooding from and at the **Fairmount Street Undercrossing** could include several remedial actions to reduce out of channel flow onto Fairmount Avenue and Home Avenue. Remedial actions should at minimum consider the following:

1. Reduction and infiltration of storm water that flows onto Fairmount Avenue and Home Avenue from the higher elevation streets and properties. Storm water should be made to infiltrate on the adjacent properties and slowed before contributing to the frequent flood conditions at the Home Avenue intersection low point.
2. The open trapezoidal concrete channel remnant, at 2281 Fairmount Avenue should be evaluated and re designed. The redesign consideration should include replacement of the open channel with a box culvert.
3. The undercrossing, at Fairmount Avenue should be evaluated and redesigned; so as to continue the flow from the east side of Fairmount Avenue to the west side of Fairmount Avenue in an appropriately sized box culvert.

D. Federal Boulevard Undercrossing

The last end section of the Auburn Creek joins the North Chollas Creek tributary, of the Chollas Creek, at the intersection of Federal Boulevard and Home Avenue. This section of Auburn Creek has some of the same design and water velocity challenges presented and discussed concerning the **Fairmount Street Undercrossing**, above.

The **Federal Boulevard Undercrossing** section, of Auburn Creek, starts to the east with an exit from a fully contained box culvert of about a one quarter of a mile in length. This box culvert flow is placed into a confided manufactured

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channel with a gravel bottom. The design constrained channel had been further constrained by the SDPD to provide it with additional building space for its Police Campus and then the Central SDPD Garage. This short open channel is then confronted with a small cross section **Federal Boulevard Undercrossing** designed and installed before the box culvert or the interference with the channel by SDPD. The flow is further challenged by the convergence of Auburn Creek with the larger size and volume North Chollas Creek tributary 200 yards to the south. The combined flow is then forced under the Home Avenue undercrossing into the large trapezoidal concrete channel that flows parallel to the SR-94 Freeway.

The Auburn Creek flow, from the east, seriously damaged the pedestrian bridge at Federal Boulevard. This damage has not been repaired and pedestrian access is no longer available. This condition has existed for more than three (3) years and interferes with a safe path of ADA travel. [There is no curb, gutter, or ADA sidewalk on the south side of Federal Boulevard].

The City installed large rip rap on the east side of Auburn Creek, at this location, to protect its SDPD Central Police Garage and fueling station from flooding. The Regional Water Quality Board has cited the design of the SDPD Central Police Garage for the ineffectual design and operation of the storm water retention facilities at this location. SEE: **Order No. R9-2017-0056, Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order**, CALIFORNIA REGIONAL WATER QUALITY BOARD SAN DIEGO REGION, Place ID: CW-25522 & **Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order for \$949,634 in the Matter of the City of San Diego, for Violations of Municipal Storm Water Permits 2001-001 and R9-2007-0001**. Specifically see #6 at page 44 of 55 of Exhibit 3 City of San Diego – Public Deficient Projects Status.

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Solutions possible for addressing the flooding from and at the **Federal Boulevard Undercrossing** could include several remedial actions to reduce out of channel flow onto Fairmount Avenue and Home Avenue. Remedial actions should at minimum consider the following:

1. Reduction and infiltration of storm water that flows onto Home Avenue from the higher elevation streets and properties. Storm water should be made to infiltrate on the adjacent properties and slowed before contributing to the frequent flood conditions at the Home Avenue intersection low point.
2. The storm water that washed off of the very large paved AT&T service yard, at Ash Street and Home is of particular concern. The volumes that wash down into a special storm drain should be contained and slowed in a detention pond with appropriate landscaping as an infiltration swale. This service yard wash is believed to contain high levels of zinc and copper metals based on the materials used by the many service trucks and facilities, at this location.
3. The ADA clear path of travel, on the east side, of Federal Boulevard must be repaired and restored.
4. The undercrossing, at **Federal Boulevard Undercrossing** should be evaluated and redesigned; so as to continue the spread out the flow from the east side of Federal Boulevard. A detention area and expansion swale could be added to the area to the south.
5. The south side of **Federal Boulevard should be improved**, as required in the permit for the construction for the Central Police Garage and Federal Boulevard Police Campus. The **GroundWorks** Corporation has developed a plan for extensive ecological improvements to the south side of Federal Boulevard. This plan should be funded and implemented, with the addition of the recommendation presented in number 4, above.

V. TRANSPORTATION & NON MORTORIZED FEATURES:

The transportation system and facilities along Fairmount Avenue, Home Avenue, and Euclid Avenue are incomplete as pedestrian facilities are lacking in many sections. Sidewalks, curbs, and gutters need to be completed on the north side of Home Avenue, between Fairmount and Euclid Avenues; the south side of Federal Boulevard, between Home Avenue and the I-805 Freeway overcrossing; and sections of Euclid Avenue.

The bike way needs to be completed south of Home Avenue on Fairmount Avenue. The bike path needs to continue south on Fairmount past Home Avenue.

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SEE: [City of San Diego Bicycle Master Plan San Diego](#), California FINAL – December 2013,
PREPARED BY: Alta Planning + Design,
https://www.sandiego.gov/sites/default/files/legacy/planning/programs/transportation/mobility/pdf/bicycle_master_plan_final_dec_2013.pdf

Completion of the sidewalk facilities and bike ways will contribute to the accomplishment of **Zero Traffic Related Fatalities and Severe Injuries by 2025**, City of San Diego,, <https://www.sandiego.gov/vision-zero>

The Mayor's initial proposed budget recommends some of these capital improvement projects. SEE: [Fiscal Year 2020 Proposed Budget, Volume III, Capital Improvements Program](#), City of San Diego https://www.sandiego.gov/sites/default/files/pb_v31sw.pdf

Transportation & Storm Water City Heights Pedestrian Imp Phase 2 / S18009 pp 446-447

Transportation & Storm Water Euclid Avenue & Home Improvements / S00886 p 453

Transportation & Storm Water Minor Bike Facilities / AIA00001p471

VI. SPECIAL HAZARDS AND CONDITIONS – RAINBOW PIPELINE

Below is a Letter, dated August 8, 2016, from John Stump to Mr. Tim Sullivan, Executive Director PUBLIC UTILITIES COMMISSION - STATE OF CALIFORNIA, RE: SDG&E PIPELINE 1600 Safety Order, Future Inspection and Replacement Programs, and School Hazard Notices. This letter identifies that there is a very large and potentially dangerous high pressure gas pipeline running along Fairmount Avenue.

This pipeline must be carefully considered during the planning and consideration for approval of any projects along Fairmount Avenue at home Avenue.

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CITY HEIGHTS, CALIFORNIA 92105
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August 8, 2016

Mr. Tim Sullivan, Executive Director
PUBLIC UTILITIES COMMISSION - STATE OF CALIFORNIA
505 Van Ness Avenue
San Francisco, California 94102-3298

RE: SDG&E PIPELINE 1600 Safety Order, Future Inspection and Replacement Programs, and School Hazard Notices

Dear Mr. Sullivan,

Many thanks to the Public Utilities Commission, my Sierra Club, and the Union Tribune for their vigilance on this old and potentially very dangerous pipeline. This Pipeline is approaching 70 years of age and if it was human it would have retired, be collecting Social Security, and on Medicare. The San Bruno explosion made clear the scale of injury and property that could result from a pipeline failure. The Rainbow Pipeline 1600 is older, bigger, and under higher pressure than the disastrous San Bruno pipeline.

Rainbow Pipeline 1600 passes through heavily populated urban areas of San Diego, including my home community of City Heights. Not only does this old gas line pass under homes and apartment buildings, it passes through and directly adjacent to Central Elementary School, several child care facilities, the very and active City Heights Library, Farmers Market and park and police complexes, the Mid City Heights Community College campus, Clark Middle School, Hamilton Elementary School, and Webster Elementary School, in City Heights. The San Diego Unified School District maintains these facilities with some 2,500 or more students. Parents, teachers, and residents are unaware of the potential danger hidden just below the surface.

On several occasions, I have written San Diego Gas and Electric, the City of San Diego, the San Diego Unified School District, and the San Diego Community College to urge inspection and possible removal of this aged line. I believe that any future pipeline projects should NOT be routed through residential streets but rather should be rerouted along the Freeway corridors that follow along the about the same routes. This alternate should be considered as part of the project reviews, including but not limited to, the CEQA and NEPA processes.

If the pipeline is abandoned, then it should be considered for reuse and reconditioning as a conduit for recycled purple pipe water, which is produced along the pipeline north of the Highway 8 but unavailable in our area, south of Highway Eight. Additionally, the repurposed pipeline could be used as a secure conduit for undergrounding communications and fiber optics, whose hub is now in City Heights, along the current pipeline's route.

I request that the above information be considered in any future project or remediation and inspection programs and projects. I request notice of the ability to comment, in the future, and that such notices, be prominently placed at each of the schools and public facilities listed above and along the pipeline route. Such notices should be prepared to communicate the projects proposal and the hazards, in the languages common to our community.

I also want the Commission to carefully consider the extensive natural habits in our community which surround the Cholas Creek, an impaired waterway with listed flora and fauna. Our city Heights community is a well-documented site of pre settlement native indigenes peoples. Great care should be taken when planning any project through or along the Cholas watershed, creeks, and canyons.

Again, thank you for your oversight.

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John Stump

Copy: City of San Diego, San Diego Unified School District, San Diego Community College, SDG&E, and City Heights Planning Committee, City Heights Community Development Corporation, SD Union Tribune

VII. CALIFORNIA ENVIRONMENTAL QUALITY ACT SUMMARY

STANDARD OF REVIEW

"The ...applicable standards of review for... reviewing ...actions under CEQA, ... must determine whether there was "a prejudicial abuse of discretion." (Pub. Resources Code, § 21168.5.) "Abuse of discretion is established if the agency has not proceeded in a manner required by law, or if the determination or decision is not supported by substantial evidence." (*Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 486.)

"[A] reviewing court must adjust its scrutiny to the nature of the alleged defect." (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435 (Vineyard).) Challenges to an agency's failure to proceed in the manner required by CEQA are subject to a significantly different standard of review than challenges that an agency's decision is not supported by substantial evidence. (*Ibid.*) Where the challenge is that the agency did not proceed in the manner required by law, a court must "determine de novo whether the agency has employed the correct procedures, 'scrupulously enforc[ing] all legislatively mandated CEQA requirements.'" (*Ibid.*)

Furthermore, when a prior environmental impact report has been prepared and certified for a program or plan, the question for a court reviewing an agency's decision not to use a tiered EIR for a later project "is one of law, i.e., 'the sufficiency of the evidence to support a fair argument.'" (*Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1318.) "[I]f there is substantial evidence in the record that the later project may arguably have a significant adverse effect on the environment which was not examined in the prior program EIR, doubts must be resolved in favor of environmental review and the agency must prepare a new tiered EIR, notwithstanding the existence of contrary evidence." (*Id.* at p. 1319, fn. omitted.) The court "must set aside the decision if the administrative record contains substantial evidence that a proposed project might have a significant environmental impact; in such a case, the agency has not proceeded as required by law." (*Id.* at 1317.)

II. OVERVIEW OF CEQA

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"The fundamental goals of environmental review under CEQA are information, participation, mitigation, and accountability." (*Lincoln Place Tenants Assn. v. City of Los Angeles* [2007] 155 Cal.App.4th 425, 443-444 [*Lincoln Place II*].)

As the California Supreme Court has explained: "If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees. [Citations.] The EIR process protects not only the environment but also informed self-government." (*Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 392 [*Laurel Heights*].)

CEQA requires a public agency to prepare an environmental impact report (EIR) before approving a project that may have significant environmental effects. (Pub. Resources Code, § 21100.) The EIR is "the heart of CEQA" . . . an 'environmental "alarm bell" whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.'" (*Laurel Heights, supra*, 47 Cal.3d at p. 392.)

CEQA authorizes the preparation of various kinds of environmental impact reports depending upon the situation, such as the subsequent EIR, a supplemental EIR, and a tiered EIR. (Pub. Resources Code, §§ 21166, 21068.5, 21093, 21094.) Whereas the subsequent EIR and supplemental EIR are used to analyze modifications to a particular project, a tiered EIR is used to analyze the impacts of a later project that is consistent with an EIR prepared for a general plan, policy, or program. (CEQA Guidelines, § 15385; compare Pub. Resources Code, § 21166 & CEQA Guidelines §§ 15162, 15163 & 15164 [referencing "the project"] with Pub. Resources Code, § 21093 [stating that later projects may use tiering].)

CEQA requires that "environmental impact reports shall be tiered whenever feasible." (Pub. Resources Code, § 21093, subd. (b).) Tiering means "the coverage of general matters in broader EIRs (such as on general plans or policy statements) with subsequent narrower EIRs . . . incorporating by reference the general discussions and concentrating solely on the issues specific to the EIR subsequently prepared." (CEQA Guidelines, § 15385; Pub. Resources Code, § 21068.5.) In the context of program and plan-level EIR's, the use of tiered EIR's is mandatory for a later project that meets the requirements of Public Resources Code section 21094, subdivision (b). (Pub. Resources Code, § 21094, subd. (a).)

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Another requirement of CEQA is that public agencies "should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." (Pub. Resources Code, § 21002.) "A 'mitigation measure' is a suggestion or change that would reduce or minimize significant adverse impacts on the environment caused by the project as proposed." (*Lincoln Place II*, *supra*, 155 Cal.App.4th at p. 445.) If the agency finds that mitigation measures have been incorporated into the project to mitigate or avoid a project's significant effects, a "public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation." (Pub. Resources Code, § 21081.6, subd. (a)(1).)

If a mitigation measure later becomes "impracticable or unworkable," the "governing body must state a legitimate reason for deleting an earlier adopted mitigation measure, and must support that statement of reason with substantial evidence." (*Lincoln Place Tenants Association v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1509 (*Lincoln Place I*)).

SIERRA CLUB v. COUNTY OF SAN DIEGO, COURT OF APPEAL, FOURTH APPELLATE DISTRICT DIVISION ONE, STATE OF CALIFORNIA, D0642, 43, (Super. Ct. No 37-2012-00101054-CU-TT-CTL), dFiled 10/29/14 Certified for publication 11/24/14

VIII. FOOTNOTES AND REFERENCES:

1. **Illustration – Map San Diego Canyonlands Map Water Sheds** <http://www.sdcanyonlands.org/pdfs/san%20diego%20watersheds%20080207friendsgroup%20copy.jpg>
2. **Chollas Watershed Comprehensive Load Reduction Plan** <https://www.sandiego.gov/sites/default/files/sdcbchollascirp.pdf>
3. Letter, May 11, 2010, CHOLLAS RESTORATION, ENHANCEMENT AND CONSERVANCY to San Diego Planning Commission, RE: AUBURN CREEK designation in proposed Master Storm Water System Maintenance Permit (Item # 6); <http://dockets.sandiego.gov/sirepub/cache/2/gatwaktpkakew4hh505adiao/37230705062019011549742.PDF>
4. Map of the Business and Residents Sections of San Diego, Cal.
5. **INTERIM REPORT NO. 14, THE ONTARIO AVENUE CONNECTION AND FOX CANYON PARK**, REPORT OF THE SAN DIEGO CITY ATTORNEY MICHAEL J. AGUIRRE, 27 February 2007, 56 pages http://sdcityattorney.com/Interim_Reports/18_14_Fox_Canyon_Park_20070227.pdf

AUBURN CREEK & CANYON, v. 1.5.19

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Letters of Comments and Responses

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6. **HYDRAULIC DESIGN MANUAL**, County of San Diego Department of Public Works. Flood Control Section September 2014 https://www.sandiegocounty.gov/content/dam/sdc/dpw/FLOOD_CONTR_01/floodcontroldocuments/hydraulic_design_manual_2014.pdf
7. **FAO Watershed Management Field Manual**, Conservation Guide No. 13 <http://www.fao.org/3/t0099e/t0099e04.htm>
8. **COUNTY OF SAN DIEGO GUIDELINES FOR DETERMINING SIGNIFICANCE AND REPORT FORMAT AND CONTENT REQUIREMENTS BIOLOGICAL RESOURCES**, Fourth Revision September 15, 2010, https://www.sandiegocounty.gov/content/dam/sdc/pds/ProjectPlanning/docs/Biological_Guidelines.pdf
9. **Pools: Liquid Sapphires of the Chaparral, California Chaparral Institute** <http://www.californiachaparral.com/vernalpools.html>
10. ECOLOGICAL STUDY OF VERNAL POLLS, SAN DIEGO COUNTY; Edith A. Purer, Hoover High School, Ecological Society of America, Volume 20, No. 2, pp 217-229
11. DISPERSAL CAPABILITY OF THE CALIFORNIA GNATCATCHER: A LANDSCAPE ANALYSIS OF DISTRIBUTION DATA, ERIC A. BAILEY and PATRICK J. MOCK, Ogden Environmental and Energy Service Company, 5510 Morehouse Drive, San Diego, California 92121 (current address of Mock, as corresponding author, Dames & Moore, Inc., 9665 Chesapeake Drive, Suite 201, San Diego, California 92123)
12. **CITY OF SAN DIEGO VERNAL POOL HABITAT CONSERVATION PLAN**, October 2017 https://9670f26306f8aa722eb1-b8a0720b767e6949515361a19a9737fssl.cf2.rackcdn.com/uploads/website_attachment/attachment/161/vph-cp.pdf
13. **Kumeyaay**, From Wikipedia, the free encyclopedia, <https://en.wikipedia.org/wiki/Kumeyaay>
14. **CHOILLAS CANYON MASTER PLAN**, PELTA, City of San Diego – CDBG Grant Council District 4 Rev. George Stevens, Councilman.
15. **Zero Traffic Related Fatalities and Severe Injuries by 2025**, City of San Diego, <https://www.sandiego.gov/vision-zero/>
16. **Fiscal Year 2020 Proposed Budget, Volume III: Capital Improvements Program, City of San Diego** https://www.sandiego.gov/sites/default/files/pb_v3tsw.pdf Transportation & Storm Water City Heights Pedestrian Imp Phase 2 / S18009 at pages 446-447; Transportation & Storm Water Euclid Avenue & Home Improvements / S00886 at page 453; and Transportation & Storm Water Minor Bike Facilities / AIA00001 at page 471. Further

Letters of Comments and Responses

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17. CEQA and design comments concerning the **CHARLES LEWIS III Park**, on Home Avenue – specifically traffic crossing, signals, and safety signage. Additionally this CEQA report and related studies contain information concerning Auburn Creek habitats and listed species.
18. Project Name: Marijuana Outlet 2281 Fairmount Avenue □ Project No. 607352 / SCH No. N/A, DRAFT NEGATIVE DECLARATION, April 18, 2019 Revised, https://docs.sandiego.gov/citybulletin_publicnotices/CEQA/PN1300%20607352%20Revised%20Draft%20ND%20PN%20Date%204-18-19.pdf
19. Preliminary Hydrology Study for 2281 Fairmount Avenue, prepared by K&S Engineering, Inc., July 26, 2018
20. Letter of Map Amendment, prepared by Federal Emergency Management Agency, dated October 3, 2018, for 2281 Fairmount Avenue, San Diego, California
21. **HYDRAULIC DESIGN MANUAL**, County of San Diego Department of Public Works, Flood Control Section September 2014, https://www.sandiegocounty.gov/content/dam/sdc/dpw/FLOOD_CONTROL/floodcontrol/documents/hydraulic_design_manual_2014.pdf
22. **Order No. R9-2017-0056, Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order**, CALIFORNIA REGIONAL WATER QUALITY BOARD SAN DIEGO REGION, Place ID: CW-25522, https://www.waterboards.ca.gov/sandiego/board_decisions/adopted_orders/2017/R9-2017-0056.pdf
23. **Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order for \$949,634 in the Matter of the City of San Diego, for Violations of Municipal Storm Water Permits 2001-001 and R9-2007-0001**, https://www.waterboards.ca.gov/sandiego/board_decisions/adopted_orders/2014/R9-2014-0017.pdf
24. **City of San Diego Bicycle Master Plan San Diego**, California FINAL – December 2013, PREPARED BY: Alta Planning + Design, https://www.sandiego.gov/sites/default/files/legacy/planning/programs/transportation/mobility/pdf/bicycle_master_plan_final_dec_2013.pdf
25. **Zero Traffic Related Fatalities and Severe Injuries by 2025**, City of San Diego, <https://www.sandiego.gov/vison-zero>
26. **Fiscal Year 2020 Proposed Budget, Volume III: Capital Improvements Program**, City of San Diego https://www.sandiego.gov/sites/default/files/pb_v3taw.pdf

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[Transportation & Storm Water City Heights Pedestrian Imp Phase 2 / S18009 pp 446-447](#)
[Transportation & Storm Water Euclid Avenue & Home Improvements / S00886 p 453](#)
[Transportation & Storm Water Minor Bike Facilities / AIA00001p471](#)

27. SIERRA CLUB v. COUNTY OF SAN DIEGO, COURT OF APPEAL, FOURTH
APPELLATE DISTRICT DIVISION ONE, STATE OF CALIFORNIA, D0642, 43, (Super. Ct.
[No 37-2012-00101054-CU-TT -CTL](#)), dFiled 10/29/14 Certified for publication 11/24/14

28. Letter, dated August 8, 2016, from John Stump to Mr. Tim Sullivan, Executive Director
PUBLIC UTILITIES COMMISSION - STATE OF CALIFORNIA, RE: SDG&E PIPELINE 1600
Safety Order

*Opinions stated above are based on personal observations, information and beliefs
made in good faith and nearly fifty years of residency in the City Heights community*

Letters of Comments and Responses

Cc: Michael DiPaolo <mdipaolo2891@gmail.com>

Subject: Projects PTS No. 630996 Group Job 968 – Home Avenue /Fairmount Avenue Water and Storm drain; Project No. 607352 – Marijuana Outlet 2281 Fairmount Avenue; Project No. 593686 – 4337 Home Avenue Marijuana Outlet

The Columbus Club of San Diego, Inc.
4425 Home Avenue
City Heights, California 92105

May 8, 2019

City of San Diego
c/o Ms. Rhonda Benally, Ms. Angela Nazareno, Mr. Mark Brunette,
City of San Diego Development Services Center
1222 First Avenue ANazareno@sandiego.gov
DSDEAS@sandiego.gov; swppp@sandiego.gov
San Diego, California 92101

RE: Projects PTS No. 630996 Group Job 968 – Home Avenue / Fairmount Avenue Water and Storm drain; Project No. 607352 – Marijuana Outlet 2281 Fairmount Avenue; Project No. 593686 – 4337 Home Avenue Marijuana Outlet;

Dear City of San Diego (DSDEAS@sandiego.gov),

I am the Chairman of **The Columbus Club of San Diego, Inc.**, 4425 Home Avenue, City Heights, California 92105. I have received notice of several projects in our area.

We are concerned with flooding along Fairmount and Home Avenue, as our club has flooded this year and periodically over the past decade. We think flooding comes from the creek channel.

We are also concerned by ever increasing traffic congestion along Fairmount and Home Avenue. Are these new businesses going to have more customers and employees than are already there? Please do a comparative traffic study of the additive impacts.

The large number of Marijuana Outlet projects suggest that there may be additive and cumulative impacts from these many projects along Home Avenue and Fairmount. The area already has an overconcentration of off sale alcohol licenses.

The other hazard that must be considered is the hazard of fire along the hillsides.

Please provide me with written responses to these comments and concerns.

C-1. Comment noted. This comment pertains to an offsite flooding issue related to The Columbus Club of San Diego, Inc. This comment does not relate to the analysis or address the adequacy of the environmental document or any onsite conditions. As stated in Section IX. Hydrology and Water Quality, page 21 of the Negative Declaration the project would not result in any direct or indirect impacts to the onsite portion of Chollas Creek. As indicated in the Initial Study of the environmental document, the site's drainage path would remain the same as the existing conditions under the project, and project improvements would result in a reduction of runoff generated. Therefore, the project would not substantially alter the existing drainage pattern or alter the course of a stream or river in a manner that would result in flooding on, or offsite. No impact related to flooding would occur from implementation of this project.

C-2. Comment noted. An Access Analysis evaluating direct and cumulative impacts on intersections and street segments associated with the project was prepared by Urban Systems Associates, Inc. (December 2018). The Access Analysis determined that total project trip generation for the project would be a net increase of 620 average daily trips (ADT) with 58 AM peak hour trips (28 in / 30 out) and 103 PM peak hour trips (52 in / 51 out). Based on the results of the Access Analysis, the project is not expected to have any significant impacts on the study street segments and intersections under Existing With Project or Near-Term With Project (Opening Day Year 2020) conditions. Impacts would be less than significant.

C-3. Comment noted. As stated in Section VII. Hazards and Hazardous Materials, page 18 of the Negative Declaration, a Brush

Letters of Comments and Responses

considered the least flammable, and would consist of pavement and permanently irrigated ornamental and drought tolerant planting. Brush Management Zone Two is the area between Brush Management Zone One and the area of native or naturalized vegetation and would consist of thinned, native or naturalized non-irrigated vegetation. The brush management zones were established based on the existing, previously conforming structure. Zone One width ranges from 8'-4" to 42'-4" while Zone Two width ranges from 5'-9" to 19'-8". All proposed landscape and irrigation onsite would conform to the standards of the City-wide Landscape Regulations and the City of San Diego Land Development Manual Landscape Standards and other landscape related City and regional standards. The project is not required to provide alternative compliance measures since this is an existing, previously conforming structure. However, the project is proposing to provide additional fire-resistant measures, such as upgrading openings to dual glazed and dual tempered panes. With implementation of the Brush Management Program, appropriate landscaping and fire-resistant construction, the project would not expose people or structures to a significant risk of loss, injury or death involving wildland fires. Impacts would be less than significant.

Management Program would be implemented for this project. Brush Management Zone One includes the area adjacent to the structure,

Letters of Comments and Responses

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cont.

Please Notice us of any future opportunities to comment or attend public hearings on these projects.

Sincerely,

The Columbus Club of San Diego

Mike DiPaolo
Columbus Club Corporation Chair
mdipaolo2891@gmail.com
c. 619.663.8413

CONFIDENTIALITY NOTICE:

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Please consider the environment before printing this message.

C-4. This group's contact information has been added to the notification list for project noticing.

Letters of Comments and Responses

LAW OFFICE OF FELIX TINKOV

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San Diego, CA 92101
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Felix Tinkov, Esq.
Principal

VIA EMAIL

May 7, 2019

Rhonda Benally
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101
DSDEAS@sandiego.gov

Re: Negative Declaration Proposed for Marijuana Outlet at 2281 Fairmount (Proj. No. 607352)

Dear Ms. Benally:

This firm has reviewed the negative declaration ("ND") proposed for a marijuana outlet development at 2281 Fairmount Avenue ("Project") and found it to be legally deficient under the California Environmental Quality Act ("CEQA")¹ and directly violative of the San Diego Municipal Code ("SDMC"). The Project, as designed, is likely to result in substantial, unmitigated environmental impacts to tribal resources and life safety unless it is conditioned in a manner to avoid such effects. The ND also ignores one glaring fact – the proposed marijuana outlet sits on residentially zoned property and directly abuts two residentially-zoned properties containing single family homes in direct contravention of the 100-foot separation requirement found at SDMC §141.0504(a)(2). While the CEQA issues may be resolved by the preparation of an environmental impact report, or the imposition of conditions which would reduce the impacts below a level of significance, the separation requirement cannot be met. Therefore, this Project must be denied.

INTRODUCTION

The approximately 0.50-acre subject site is proposed for the development of a 2,800 square foot marijuana outlet within a larger 3,976 square foot building (consisting of 6,313 square feet in floor space over multiple levels) formerly operating for decades as a car repair facility with no prior approved environmental analysis or entitlements. The Project includes the construction of a 70-foot long, 30.5-foot high wall, replacing an existing metal siding wall, the construction of a 24-foot wide driveway and a new concrete bus stop slab on Fairmount Avenue as well as replacement of curb, gutter and sidewalk improvements. The subject site is **directly adjacent** to two residentially zoned lots, OR-1-1 and RS-1-1, located at 4403 and 4404 Cynthia Place along its southerly boundary. Approximately half a dozen other residential properties lie within a 100-foot radius, albeit those sites are separated by a steep slope which the City may lawfully consider as an obstruction obviating the separation requirement found at SDMC §113.0225. The issue which the

¹ CEQA is found at Public Resources Code sections 21000 et. seq.; and the CEQA Guidelines are found at California Code of Regulations, Title 14, Division 6, Chapter 3, sections 15000-15387.

D-1. Comment noted. On May 20, 2019, the City's Environmental Analysis Section (EAS) sent AB 52 Notification to Tribal Representatives, the Iipay Nation of Santa Ysabel and the Jamul Indian Village via email. Both the Iipay and Jamul Indian Tribes concurred with qualified City staff that based on project information that no additional archaeological evaluation or mitigation would be required. Further, Tribal representatives had no further concerns to Tribal Cultural Resources, consultation was closed for this project. In addition, qualified City staff reviewed the project and had no further concerns to access and life safety issues. Further, during the building permit plan review process, the project will be reviewed for compliance with fire and life safety requirements (i.e., sprinklers, alarms, emergency exits) by Development Services Department Planning staff. In accordance with CEQA Guidelines Section 15070, a Negative Declaration was prepared for the proposed project because the initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment. Based on the environmental review of the project it was determined that no substantial significant effects would occur, therefore the preparation of a Negative Declaration was the appropriate environmental document to prepare for this project. Also refer to response D-2.

D-2. Comment noted. This comment relates to San Diego Municipal Code Section 113.0225 and does not address the adequacy of the environmental document. The project developed footprint is not located within a residential zone.

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LAW OFFICE OF FELIX TINKOV

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cont.

City cannot paper over is that **the subject site is, itself, located on a residentially zoned, OR-1-1, lot which prohibits any marijuana uses thereon.**²

D-3

The site also directly abuts a large drainage channel on its northerly boundary and lies completely within the floodplain and an area. The ND provides that no mitigation measures are required based upon an initial study ("Initial Study") performed by the City of San Diego.

D-4

In preparing the ND, it appears the City has failed to comply with the requirements of Assembly Bill 52 ("AB 52"). This legislation, enacted in 2014, requires the City to forward notice to local tribes registered as interested parties within 14 days of a development application's completion. (*Public Resources Code §21080.3.1(a),(d).*) The City must then wait for a period of 30 days for tribal representatives to request a consultation with staff to discuss cultural tribal resources that may be disturbed by a development. It is only **after** this consultation that the City may adopt a negative declaration or certify an environmental impact report ("EIR"). In this instance, the City has openly explained that it has not provided the required AB 52 notice, notwithstanding the significant earth work which will be required in constructing a 2,135 square foot solid wall with its attendant foundations, the installation of a heavy-duty bus stop concrete pad (requiring jackhammering of the existing street and compaction of the soil underneath resulting in potential harm to any tribal artifacts thereon), the removal and replacement of the existing driveway apron and the reconstruction of curbs, sidewalks and gutters in an area known to be highly sensitive with respect to tribal resources. All of this work requires significant soil disturbance which is likely to generation significant impacts to cultural resources and requiring notification under AB 52.

D-5

The Project, as proposed, also exposes the public to a wide-ranging area of potentially significant life safety impacts. As a former vehicle repair facility proposing to close in pursuit of the development of a marijuana outlet, SDMC §55.0407 requires compliance with California Fire Code §407.7's provisions for the preparation, submission and review of facility closure plans. These plans are required to ensure the proper handling and disposal of hazardous materials. Notwithstanding the existence of such hazardous materials on the subject premises, the City has no record of having reviewed such a facility closure plan for the Project and therefore has no basis on which to determine what hazardous materials exist on the property and how/whether they will be disposed of prior to inviting members of the public onto the site to purchase ingestible marijuana products.

² The subject site is zoned IL-3-1 (Light Industrial) and OR-1-1 (Open Space-Residential). While the structure intended to operate as a marijuana outlet lies fully within the IL-3-1 zoned portion of the lot, the San Diego Municipal Code does not concern itself with this distinction. Instead, SDMC §§113.0225 specifically provides that the separation requirement between residentially zoned property and a marijuana outlet be measured from each of the respective properties' boundaries, rather than the cannabis-related structure's, or the residential structure's, location. The fact that the proposed marijuana outlet site is zoned OR-1-1 means the Project cannot meet the separation requirement by any means.

D-3.

Comment noted. Although the project site contains a portion of a channelized tributary to Chollas Creek, the proposed project would not result in any direct or indirect impacts to this creek. As determined in the Hydrology Study, the site drainage path would remain the same as the existing conditions under the project, and the proposed project improvements would result in a reduction of runoff generated. Additionally, the project would implement source control Best Management Practices and a Water Pollution Control Plan. Therefore, the project would not substantially alter the existing drainage pattern or alter the course of a stream or river in a manner that would result in flooding on, or offsite. No impact would occur and no mitigation is required. Additionally, as stated in Section IX. Hydrology and Water Quality, page 21 of the Negative Declaration, as part of the project, a Letter of Map Revision removing the site from the FEMA floodplain was prepared and a Conditional Letter of Map Revision (CLOMR) was approved. FEMA has reviewed the project and deemed there are no significant flood hazards potentially affecting the project site. Therefore, the project would occur within an existing building and would not place any structures that would impede or redirect flood flows within a 100-year flood hazard area. No impact would occur and no mitigation is required.

D-4.

Comment noted. The project would not result in "significant earth work" or "significant soil disturbance" from the construction of the proposed wall, driveway apron, curb, sidewalk, gutter or bus stop concrete pad. The project and proposed improvements, including the wall, would only occur on developed portions of the project site. The project proposes the import of 25 cubic yards and the fill of 25 cubic yards. The project does not require grading or any substantial earthwork. Also stated in Section V. Cultural Resources, page 14 of the Negative Declaration, the project proposes improvements within an existing facility and proposes site improvements with minimal ground disturbance in a previously disturbed area of the site.

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Refer to D-1 regarding AB 52 Notification. Therefore, the project would not result in impacts to cultural resources, therefore mitigation will not be required.

- D-5.** The project site is currently utilized as a vehicle repair facility. This existing facility operates with all requisite permits and has undergone and passed all hazardous material waste management inspections, including annual inspections conducted by the County Department of Environmental Health. Pursuant to California Health and Safety Code, the required annual inspections for the former facility were considered routine and required maintaining current inventory statements and maintaining a Hazardous Materials Business Plan for storing and handling any hazardous materials. The County required annual inspections included a review of reporting requirements met, review of employee training records and review of disposal receipts from Clean Tech Environmental. As part of the project, the applicant would voluntarily apply to the applicable fire code official for approval to permanently close the existing facility. As set forth in Section 5001.6, the fire code official is authorized to require such application be accompanied by an approved facility closure plan in accordance with Section 5001.6.3, if required. If required by the fire code official, the Applicant would submit a facility closure plan in accordance with Section 5001.6.3 at least 30 days prior to facility closure meeting the requirements of Section 50001.6.3. Closure of the former facility would comply with all local, state and federal laws. Compliance with this existing regulation would ensure the past site operation is closed in a manner that complies with all hazardous materials regulations and that any future site use would not be subjected to any hazardous materials issues. As stated in Section VIII. Hazards and Hazardous Materials, page 18 of the Negative Declaration, the project site is not included on any hazardous materials sites compiled pursuant to Government Code section 65962.5. On May 9, 2019, EAS contacted the County of San Diego's Department of

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Environmental Health and it was confirmed that there are no active open or closed cases listed for this site, however the County stated that there are three County Hazardous Materials Program Permits, including two permits for automotive repair facility associated with this site and inspection reports. Refer to response A-1, and therefore, based on information submitted the project did not meet the CEQA Thresholds for hazardous materials, therefore further environmental review was not required. Additionally, as part of the proposed project, the new building would apply a new sealant to the existing interior concrete slab, provide an HVAC system with adequate filters and would provide natural ventilation to the interior spaces. The facility would also provide an odor absorbing ventilation and exhaust system and any mechanical equipment on the roof would be fully screened by a metal roof and exterior metal siding. Additionally, the proposed project would continue the existing site use as a commercial facility and the past operation was not considered an industrial use. The Project was also reviewed by qualified City staff and determined to pose no risk to life safety. Therefore, the proposed project would not expose the public to significant life safety impacts.

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D-5
cont.

Similarly, given the subject site's multi-decade use as a vehicle repair facility (one apparently constructed without prior environmental review or discretionary entitlement according to the ND), it is incumbent on the City to have the applicant investigate the soil conditions to determine what hazardous chemicals may be found therein and whether these hazardous materials have leached away from the site and into the directly adjacent drainage channel flowing into the Pacific Ocean without filtration.

D-6

The Project, as currently conditioned, does not appear to meet state mandates for security measures. Namely, no condition appears to have been placed on the Project requiring the installation of a security fence along the easterly side of the site, currently directly accessible to a large, unpaved parking lot owned by the adjacent Knights of Columbus Hall where children and families gather for celebratory events. When considering the development of such a fence, the City must also condition its construction upon permitting access to fire safety personnel to the rear of the facility, as there is no vehicular access envisioned from the Fairmount Avenue access point. These life safety issues are potentially significant as they may permit/encourage crime by the illicit movement of a controlled substance without limitation, and may generate a particularly hazardous condition in limiting access to firefighters in the event of a medical or fire emergency in the rear of the premises, endangering the lives of neighboring residents, business owners and attendees of events at the neighboring Knights of Columbus facility.

These CEQA violations, and concomitant public nuisances (note: violations of the SDMC are considered, *per se*, public nuisances), must be analyzed properly and the Project must be conditioned accordingly. Given the substantial evidence in the record that the Project may create significant impacts on the environment, the City may also opt to prepare an EIR if it cannot find a means to overcome these detrimental effects.

LEGAL STANDARD FOR THE PREPARATION OF A NEGATIVE DECLARATION

D-7

The four basic purposes of CEQA are to:

- (1) Inform governmental decision-makers and the public about the potential, significant environmental effects of proposed activities.
- (2) Identify the ways that environmental damage can be avoided or significantly reduced.
- (3) Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.

D-6. As stated on page 4 of the Negative Declaration, Description of the Project, the project would include the following security measures: operable cameras, alarms, a metal detector, and a security guard licensed by the State of California. At least one (1) security guard would be present during all hours and more than one (1) security guard would be present during all business hours as required by City regulation. As shown in the Proposed Security Plan prepared by Urban Systems Associates, Appendix C of the CEQA document, the proposed building improvements would also include bullet proof windows, walls, and doors. Therefore, the proposed project provides increased security measures. Also, as part of the project, new security fencing would be provided around the entire building. Further, qualified City staff reviewed the project for compliance with fire access and life safety and the project was determined consistent with City requirements. Therefore, the project does not pose a risk to life safety. Refer to response D-5.

D-7. Refer to response D-1 regarding the preparation of a Negative Declaration for the proposed project. Item 8, page 4 of the Negative Declaration, provides a full project description as required by CEQA Guidelines Section 15124.

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- (4) Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.

(*CEQA Guidelines §15002.*)

A negative declaration may only be prepared by a public agency when the initial study identifies no potentially significant effects **and** there is no substantial evidence in the administrative record may have a significant effect on the environment. (*CEQA Guidelines §15070.*) Court decisions interpreting CEQA have further refined these basic rules into what is known as the fair argument standard, which obliges the preparation of an EIR where substantial evidence in the record supports a merely “fair argument” that the project *may* cause a significant impact. (*Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151.) In other words, the administrative record need not establish conclusively that a significant impact *will* occur; it need only provide support for arguments that such an impact *might* occur in order to compel the preparation of an EIR.

The fair argument standard is defined as a low threshold to overcome in forcing the preparation of an EIR. (*Citizens Action to Serve All Students v. Thronley* (1990) 222 Cal.App.3d 748, 754. See also *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d, 310.) This low threshold is necessary because a negative declaration represents the termination of the environmental review process, whereas an EIR may be required to resolve any uncertainty created by conflicting facts and assertions. An EIR operates to replace tentative opinion and speculation with factual evidence derived through stringent technical study. (*Citizens of Lake Murray Area Assn. v. City Council* (1982) 129 Cal.App.3d 436, 400. See also *No Oil, Inc. v. City of Los Angeles* (1975) 13 Cal.3d 68, 75.)

When determining whether a fair argument has been made by the petitioning parties, courts treat the issue as one of law, not fact. The courts have determined that “[u]nder this standard, deference to the agency’s determination is not appropriate and its decision not to require an EIR can be upheld only when there is no credible evidence to the contrary. (*Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1317-1318.) It does not matter whether the agency can point to contrary evidence in the record that might support a “no significant impact” finding. This interpretative rule was stated in *San Bernardino Valley Audubon Society, Inc. v. Metropolitan Water Dist.* (1999) 71 Cal.App.4th 382, 389:

Under this fair argument test, the agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a proposed project may have a significant effect on the environment. If such evidence is found, it cannot be overcome by substantial evidence to the contrary.

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D-7
cont.

The lead agency cannot avoid the effect of the fair argument standard by failing to investigate or develop evidence of potential project impacts. As was explained by *Sundstrom*, *supra*, at 202 Cal.App.3d at 311, "CEQA places the burden of environmental investigation on government rather than the public." Moreover, the *Sundstrom* court said an agency "should not be allowed to hide behind its own failure to gather relevant data." (*Id.*) The court then added:

If the local agency has failed to study an area of possible environmental impact, a fair argument may be based on the limited facts in the record. Deficiencies in the record may actually enlarge the scope of the fair argument by lending a logical plausibility to a wider range of inferences.

With these basic legal parameters in mind, we now turn to the various procedural and substantive deficiencies of the instant ND.

THE PROJECT'S NEGATIVE DECLARATION VIOLATES FUNDAMENTAL REQUIREMENTS OF CEQA

The Negative Declaration Fails to Accurately Describe the Project

CEQA demands an accurate review of a development to afford affected stakeholders, the public at large, and decisionmakers the opportunity to balance the proposal's benefit against its environmental cost, consider mitigation measures, and assess the advantage of terminating the proposal. (*County of Inyo v. City of Los Angeles* (1977) 71 CA3d 185, 192.) For CEQA purposes, a "project" is defined as comprising "the whole of an action" that has the potential to result in a direct, or reasonably foreseeable indirect, physical change to the environment. (CEQA Guidelines §15378(a).) [The subject ND fails to account for this by avoiding **any** discussion of the Project's incompatibility with the zoning ordinance found at SDMC §141.0504(a)(2) which specifically provides that "*Marijuana outlets* shall maintain the following minimum separation between uses, as measured between *property lines*, in accordance with Section 113.0225...[requiring a minimum distance of] 100 feet from a residential zone."

D-8

The Project proposes a marijuana outlet that is not only within 100 feet from a residential zone (as it directly abuts two private, single family homes zoned OR-1-1, resulting in a **null** distance in violation of SDMC §141.0504(a)(2)), the lot on which the development is sought is

D-8. Comment noted. The project is located at 2281 Fairmount Avenue, within the IL-3-1 (Industrial-Light) and OR-1-1 (Open Space- Residential) Zones of the City Heights Neighborhood of the Mid-City Communities Planning area. The project's development footprint is not located within a OR-1-1. The Community Plan Land Use designates the site as General Commercial with Limited Light Industrial Use. The General Plan land use designation is Industrial Employment. The project would not significantly increase the intensity of the allowed land use. The project site is developed with an existing commercial structure with associated surface parking. The project proposes the renovation of an existing building, within the allowable height and bulk regulations of the underlying zone. The project and proposed improvements, including the wall, would only occur on developed portions of the project site. As such, the project would not exceed the height and/or bulk regulations, and would not significantly contrast with surrounding development. The project would not conflict with the land use designations of the General and Community Plan, and the underlying zone. A portion of the City's MHPA hard-line preserve is mapped along the southeastern edge of the site, and therefore, the project is subject to regulations pertaining to projects within or adjacent to the MHPA. The project would implement the MSCP/MHPA Land Use Adjacency as a condition of approval. Implementation of the MSCP/MHPA Land Use Adjacency provides further measures to ensure that indirect impacts would not rise to a level of significance. The project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project. No such impacts, therefore, would occur. Further, the commenter has not submitted substantial evidence to support a fair argument that the proposed project may have a significant impact on the environment.

Letters of Comments and Responses

LAW OFFICE OF FELIX TINKOV

Rhonda Benally
May 7, 2019
Page 6 of 8

D-8
cont. itself, in part, zoned residential, OR-1-1. Thus, there is absolutely no separation from the prohibited zoning required under the SDMC and no marijuana outlet may be permitted on site.^{3,4}

D-9 Moreover, the immediacy of the adjacent OR-1-1 residential lots, separated from the subject site by nothing more than a standard chain link fence, fails to provide any level of protection to the single-family homes thereon as envisioned by the City Council in approving the marijuana outlet ordinance. Failing to adhere to this clearly protective feature of the Zoning Ordinance would, in effect, authorize the development of marijuana outlets on any residentially zoned lot within the City contrary to public policy and the law. For illustrative purposes, we provide a close-up snapshot of the City's Official Zoning Map showing the Project site's residential OR-1-1 zoning, and that of the directly adjacent single-family homes along Cynthia Place, as Attachment A.

In conclusion, the Project may not be authorized by law on the subject site.

Failure to Accurately Assess Project Impacts

In addition to the Project's potentially significant impacts on the environment described throughout this comment letter, certain of the assessments in the ND deserve particularized attention for their brazen misrepresentation of the facts.

The Initial Study inaccurately provides that the Project will not result in significant impacts, but only appears to do so because the City failed to address the mandatory requirements of AB 52 and a host of life safety issues. A lead agency may not willfully fail to effect a proper forecast of a project's impacts to evade the preparation of an EIR or to otherwise avoid CEQA. (*Sundstrom, supra*, at 202 Cal.App.3d at 311.) If an agency fails to adopt mitigation measures or cannot mitigate a project's significant effects, it must prepare an EIR which is adequate and objective. (*CEQA Guidelines section 15087(e).*) CEQA Guidelines Section 15002(g) defines a significant effect on the environment as "a substantial adverse change" in the conditions which exist in the area affected by the proposed project.

D-10 In the present instance, the City is aware of the significant earth work necessary to prepare a foundation for a large, 70-foot long by 30.5-foot high wall, and the soil disturbance and compaction required to develop the conditioned new driveway, curbs, gutters, sidewalks, and bus stop pad. The City acknowledges that the area is located within a highly sensitive tribal resource

³ We further point out that though the marijuana outlet structure itself appears to sit on the IL-3-1 zoned portion of the subject site, there is no viable means for any topographic or other barriers to provide the necessary separation required under SDMC §113.0225 to authorize such a use since one cannot claim such an obstruction onsite by the plain language of the zoning ordinance.

⁴ Note that Table 131-02B specifically provides that marijuana outlets are prohibited on OR-1-1 zoned sites in adherence with the minimum 100-foot distance requirement for cannabis-related uses from residentially zoned sites.

D-9. Refer to response D-1, D-6 and D-8.

D-10. Refer to response D-4.

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Rhonda Benally
May 7, 2019
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D-10
cont.

area, but nevertheless opted not to provide notice to Iipay Nation of Santa Ysabel or the Jamul Indian Village, both of which have made formal requests for such notice and have previously shown great concern over the impacts of such development in the immediate vicinity. The failure to abide by AB 52's requirement for such notice, and any consultation requested by tribal representatives thereafter, corresponds to a fatal flaw in the environmental analysis for this Project likely to be overturned by the courts.

D-11

Similarly, the City recognizes that the Project lies completely within the FEMA designated floodplain. From a review of the Project's submittals and the City's cycle issue letters, it appears the City initially required the applicant to obtain a Conditional Letter of Map Revision ("CLOMR") from FEMA before proceeding to develop its environmental analysis but has apparently dropped this requirement recently. Such a failure to comply with Federal and State law is, de facto, a violation of CEQA in that it appears the City is now prepared to approve a development which FEMA assesses as hazardous to life and property given its current location within the floodplain. We strongly suggest the City require the applicant to provide a CLOMR before proceeding with the review of the CEQA application and the entitlements sought by the applicant.

D-12

The City also ignores the dirty, hazardous use of the site for the preceding 25+ years without requiring the applicant to investigate the soil on the site through boring or similar technologies to determine whether waste oil and other contaminants have not leached into the soil, releasing cancer-causing materials into the air through evaporation and/or into the Pacific Ocean through the directly adjacent drainage channel. This is especially conspicuous in that the City acknowledges the subject site has not been environmentally scrutinized prior to its development and that it operated for decades without the benefit of such review or other conditioned entitlements which might have otherwise limited environmental damage.

D-13

Finally, we note that the City has failed to address the significant life safety issues arising from state-mandated security requirements for the operation of a cannabis business, including the need for secure fencing intended to limit criminal activity from literally moving marijuana products out of the Project's back door. Given the fact that the site is directly located adjacent to a banquet facility with unspecified and undocumented vehicles parking directly behind the subject site, the opportunity for criminal and other untoward activity is exceedingly high. Additionally, once such fencing is conditioned on the Project, the fire department must be given access to pass through the fence as the site is currently non-compliant with the state Fire Code requirement for secondary access to the back of the property given that the structure on the site is over 150 feet from the Fairmount Avenue entryway.

D-11. Comment noted. As stated in Section IX. Hydrology and Water Quality, page 21 of the Negative Declaration, a Preliminary Hydrology Study was completed for the project by K&S Engineering (July 26, 2018) and a FEMA Letter of Map Amendment was prepared for the project (October 3, 2018). The project is located in a Special Flood Hazard Area and as part of the project, a Letter of Map Revision removing the site from the FEMA floodplain was prepared and a Conditional Letter of Map Revision was approved. Qualified City staff has reviewed the project and deemed there are no significant flood hazards potentially affecting the project. Therefore, the project would not place any structures that would impede or redirect flood flows within a 100-year flood hazard area. Impacts would be less than significant. Additionally, Appendix B to the Negative Declaration provides the FEMA Letter of Map Amendment.

D-12. Refer to response D-5.

D-13. Refer to response D-6.

Letters of Comments and Responses

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CONCLUSION

D-14

Given the Project site's residential zoning, its adjacency to single-family homes located in residential zoning, and the City's failure to comply with AB 52 as well as the security and life safety requirements found in federal, state and local laws and regulations, the Initial Study must be re-opened to determine the true extent of the proposed development's impacts on the environment. Moreover, it must first be determined whether the City intends to prepare a revision to its zoning ordinance to authorize the development of a residentially-zoned property, like the subject site, for a marijuana outlet use. Otherwise, the City simply **cannot** authorize this Project to move forward. The fair argument standard required under CEQA is easily met in this case given the extensive and obvious violations of law referenced in, and omitted from, the ND.

Sincerely,



Felix Tinkov, Esq.

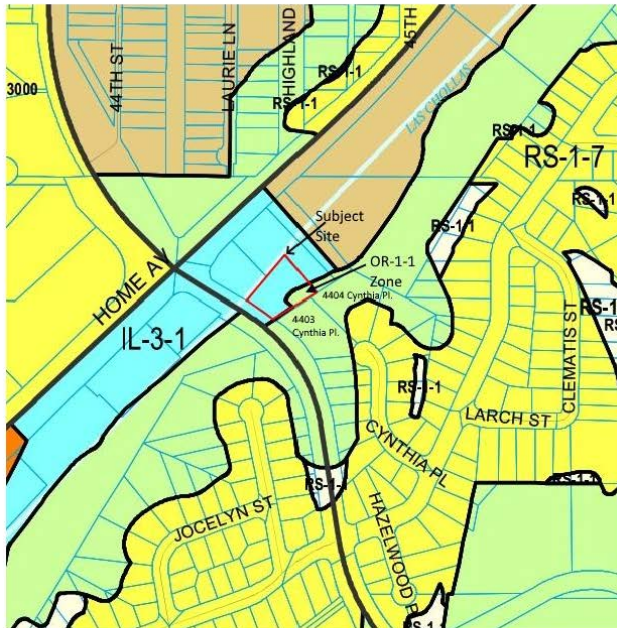
D-14. Refer to response D-1, D-4, D-6 and D-8.

Letters of Comments and Responses

D-15. Refer to response D-8.

LAW OFFICE OF FELIX TINKOV

Exhibit A



Letters of Comments and Responses

May 8, 2019

May 8, 2019

Felix Tinkov, Esq.
Law Office of Felix Tinkov
225 Broadway, Suite 225
San Diego, CA 92101

RE: 2281 Fairmount Avenue, San Diego - Project Review - Case #607352

Dear Mr. Tinkov,

As requested, I have reviewed the Cycle Issue Reviews/Responses and Brush Management Plan you have provided. I have also reviewed photographs and videos of the project location.

As a result of my review, below are my opinions regarding the fire and life safety issues that were not addressed in the documents provided and should be addressed accordingly prior to project's public hearing for approval.

ITEM#1: SUBMITTAL OF A HAZARDOUS MATERIALS FACILITY CLOSURE PLAN

Subject facility "George's Garage" (also doing business as "B and B Auto Repair") located at 2281 Fairmont Avenue is currently being used for automotive maintenance and repair which inherently involves the use, handling and storage of hazardous materials and hazardous waste (i.e. gasoline, transmission fluid, motor oils, hydraulic fluid, antifreeze, volatile solvents, etc.) The proposed change of occupancy to a marijuana outlet implies that the use of hazardous materials will no longer be allowed. The existing permit, if one exists, for the use of hazardous materials requires the property be monitored or inspected on a regular basis. There is no mention of this discontinued use, prior inspections and/or how closure will be addressed in the documents provided on the marijuana outlet project I have reviewed.

NOTE 1: Attached are photographs which appear to reflect onsite and offsite ground contamination from the hazardous materials present in the auto repair facility. This contamination should be investigated and included as a component of the "HAZARDOUS MATERIALS FACILITY CLOSURE PLAN."

The City of San Diego adopted the portion of the 2016 California Fire Code relating to hazardous materials at San Diego Municipal Code Chapter 5, "Public Safety", Article 5 "Fire Protection and Prevention", Division 50 "Hazardous Materials." The San Diego Municipal Code further provides, at section 55.0407, that the City must comply with the California Fire Code with respect to the closure of facilities known to have handled hazardous materials, like the property at 2281 Fairmount Avenue. Failure to address the state of the hazardous materials on the site currently, and upon closure, may generate a potentially significant impact on life and fire safety.

E-1. In regard to the site's use as a vehicle repair facility, closure of the facility would comply with all local, state and federal laws, including the identified California Fire Code Section 407.7, Facility Closure Plan. Refer to response D-5. As stated in Section VIII. Hazards and Hazardous Materials, page 18 of the Negative Declaration, the project site is not included on any hazardous materials sites compiled pursuant to Government Code section 65962.5. Additionally, as part of the proposed project, the new building would apply a new sealant to the existing interior concrete slab, provide an HVAC system with adequate filters and would provide natural ventilation to the interior spaces. The facility would also provide an odor absorbing ventilation and exhaust system and any mechanical equipment on the roof would be fully screened by a metal roof and exterior metal siding. Additionally, the proposed project would continue the existing site use as a commercial facility and the past operation was not considered an industrial use. The Project was also reviewed by qualified City staff and determined to pose no risk to life safety. Therefore, the proposed project would provide adequate air flow to visitors and any hazardous materials issues related to past site use would be resolved through compliance with existing regulations. Refer to response A-1, A-2, and B-3.

Letters of Comments and Responses

May 8, 2019

E-1
cont.

Specifically, the 2016 California Fire Code provides:

Section 5001.6.2 Permanently out-of-service Facilities

Facilities for which a permit is not kept current or is not monitored and inspected on a regular basis shall be deemed to be permanently out of service and shall be closed in an approved manner. Where required by the fire code official, permittees shall apply for approval to close permanently storage, use or handling facilities. The fire code official is authorized to require that such application be accompanied by an approved facility closure plan in accordance with Section 5001.6.3.

5001.6.3 Facility closure plan

Where a facility closure plan is required in accordance with Section 5001.5 to terminate storage, dispensing, handling or use of hazardous materials, it shall be submitted to the fire code official not less than 30 days prior to facility closure. The plan shall demonstrate that hazardous materials that are stored, dispensed, handled or used in the facility will be transported, disposed of or reused in a manner that eliminates the need for further maintenance and any threat to public health and safety.

The marijuana outlet project proposed as 2281 Fairmount Avenue does not appear to have considered the potentially significant impacts to life safety associated with the handling of hazardous waste at the time of the closure of the facility. The project does not appear to be conditioned in a manner requiring compliance with the Fire Code. This must be rectified by the imposition of a condition to provide a facility closure plan and an analysis of the current site conditions with respect to the past handling of such hazardous materials to ensure that no present dangers exists or that they be mitigated if the hazards continue to this day.

ITEM #2: FIRE DEPARTMENT ACCESS

E-2

Currently, fire department access to subject facility located at 2281 Fairmont Avenue is available at the front of building on both the west and east side. However, fire department access to the rear (east side) of the building can only be accomplished by entering the parking lot of an adjacent property located at 4425 Home Avenue and traveling 315 feet to the southwest. This does not appear to be a dedicated fire department access to the rear of as the entrance is controlled with a chain and lock, dedicated fire lanes and turnaround areas do not appear to have been established. A separately controlled gate located at 4425 Home Avenue, under the apparent control of the Knights of Columbus (and not the marijuana outlet applicant), also appears to close outside of the banquet hall's business hours. Without agreement from the Knights of Columbus to authorize access through their property to the rear of the proposed marijuana outlet, the Fire Department will be unable to address emergency conditions given the limited accessibility available from Fairmount Avenue.

NOTE 2: Attached are photographs that reflecting the current accessibility to the subject property.

E-2. Comment noted. As stated in Section VIII. Hazards and Hazardous Materials, page 18 of the Negative Declaration, the proposed project includes the re-construction of a 24-foot driveway on Fairmount Avenue to meet City standards. All proposed project improvements would be constructed to City standards and the proposed project would not result in inadequate emergency access. Qualified City staff has reviewed the project for compliance with fire access and life safety and the project has been determined consistent with City requirements. Therefore, the proposed project would provide adequate fire access and does not pose a risk to life safety.

Letters of Comments and Responses

May 8, 2019

E-2
cont.

Based on the current access availability to the proposed project in addition to mandated security measures for cannabis retail facilities, fire department access may be limited and should be closely evaluated and addressed in accordance with the 2016 California Fire Code (as adopted by San Diego County), specifically, Part III, "Building and Design Features", Chapter 5 "Fire Service Features". Failing to do so generates a potentially significant impact to life and fire safety.

The opinions contained in this report are based on documents reviewed as of the date on this report and were developed to a reasonable degree of certainty. I agree to a reconsideration of the conclusion if new evidence becomes available.

Should you have further questions or have concerns regarding this report, please contact me directly at (562) 261-7976.



Robert Rowe, Fire Investigator/Consultant CFI/CFEI/PI
Pyrocop, Inc.
4000 Long Beach Boulevard, Suite 251
Long Beach, CA 90807
(562) 988-7999 Office

Consultant's Bio:

Robert Rowe began his 27-year fire service in 1980 where he promoted up through the ranks from Firefighter to Fire Marshal. During his career, Robert served as a Fire Inspector, Hazardous Materials Specialist, Fire Investigator and Fire Marshal. As Fire Marshal, Robert managed an organized municipal Fire Prevention/Investigation Division in the Los Angeles area where he obtained extensive knowledge and expertise in both Fire Investigation and Fire & Building Codes and Standards. Robert served as President of the Area "E" Arson Task Force, was appointed as a Special Deputy by the U.S. Marshals Service

Robert gained his fire code knowledge and experience serving on several code and advisory committees, such as the Uniform Fire Code Interpretation Committee, International Code Council International Residential Code Committee, California Fire Chiefs Fire Prevention Officers Fire Code Committee, California Building Standards Committee and the National Fire Protection NFPA 1 Fire Code Committee.

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Letters of Comments and Responses

May 8, 2019

Since his retirement in 2007, Robert founded "Pyrocop, Inc." which is based in Long Beach, California, and has utilized his fire investigative and code knowledge in hundreds of fire loss investigations, civil litigation matters and commercial development projects. Robert has qualified as an expert in fire related matters throughout the United States and has served as a fire consultant in the Middle East.

Robert is a member of the California Conference of Arson Investigators, International Association of Arson Investigators and National Association of Fire Investigators and provides fire inspector training for the California Fire Chief's Fire Prevention Officers Association.

Robert has provided fire and life safety consulting services to Cannabis applicants in the City of Los Angeles, Culver City, Long Beach, San Diego County, San Bernardino, Ventura County and several locations within Los Angeles County.

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Letters of Comments and Responses

E-3. Refer to response E-1

E-3

PHOTO ATTACHMENTS TO NOTE 1

Evidence of Hazardous Materials & Possible Contamination



Photo 1: Apparent storage location of hazardous waste and discoloration of adjacent permeable surface along rear of 2281 Fairmount Avenue

Letters of Comments and Responses

E-3
cont.



Photo 2: Closeup image of storage of potentially hazardous materials shown in Photo 1.

Letters of Comments and Responses

E-3
cont.



Photo 3: Additional hazardous materials storage along rear of 2281 Fairmount Avenue.

Letters of Comments and Responses

E-3
cont.



Photo 4: Outdoor storage of automobile batteries and other potentially hazardous materials onsite.

Letters of Comments and Responses

E-3
cont.



Photo 5: Flood control/drainage channel adjacent to 2281 Fairmount Avenue showing mucky water and debris conditions.

Letters of Comments and Responses

E-3
cont.



Photo 6: Flood control/drainage channel adjacent to 2281 Fairmount Avenue showing mucky water and debris conditions from opposing side relative to Photo 5.

Letters of Comments and Responses

E-3
cont.



Photo 7: Closeup photo of flood control/drainage channel adjacent to 2281 Fairmount Avenue showing mucky water and debris conditions.

Letters of Comments and Responses

E-3
cont.



Photo 8: Second closeup photo of flood control/drainage channel adjacent to 2281 Fairmount Avenue showing mucky water and debris conditions.

Letters of Comments and Responses

E-3
cont.



Photo 9: Third closeup photo of flood control/drainage channel adjacent to 2281 Fairmount Avenue showing mucky water and debris conditions.

Letters of Comments and Responses

E-3
cont.

PHOTO ATTACHMENTS TO NOTE 2

Access To Rear Of Facility At 2281 Fairmount Avenue



Photo 1: Sole access point to rear of 2281 Fairmount Avenue through Knights of Columbus Club Hall parking lot (shown with access obstructed by chain).

Letters of Comments and Responses

E-3
cont.



Photo 2: Additional photo of sole access point to rear of 2281 Fairmount Avenue through Knights of Columbus Club Hall parking lot (shown with access obstructed by chain).

Letters of Comments and Responses

E-3
cont.



Photo 3: Photo of sole access point to rear of 2281 Fairmount Avenue through Knights of Columbus Club Hall parking lot (shown without obstruction and during operational hours of the Hall).

Letters of Comments and Responses

E-3
cont.



Photo 4: Photo of flag lot parking leading to the rear of 2281 Fairmount Avenue through Knights of Columbus Club Hall parking lot.

Letters of Comments and Responses

E-3
cont.



Photo 5: Photo of rear of 2281 Fairmount Avenue from the Knights of Columbus Club Hall parking lot.

Letters of Comments and Responses

E-3
cont.



Photo 6: Second photo of rear of 2281 Fairmount Avenue from the Knights of Columbus Club Hall parking lot.

Letters of Comments and Responses

E-3
cont.



Photo 7: Third photo of rear of 2281 Fairmount Avenue from the Knights of Columbus Club Hall parking lot.

Letters of Comments and Responses

F-1. Comment noted.

F-1

-----Original Message-----

From: Theresa Quiroz <quiroz@cox.net>

Sent: Tuesday, April 16, 2019 1:18 PM

To: DSD EAS <DSEAS@sanidiego.gov>

Subject: Project # 607352 2281 Fairmount Ave, Marijuana Outlet

Dear Ms. Benally,

Thank you for the opportunity to comment on the Draft Negative Declaration for Project # 607352 located at 2281 Fairmount Avenue.

I am a resident of the Ridgeview neighborhood adjacent to the property in question. I have lived there for 30 years and know the property well.

Although not required, I believe an important consideration for this project is the 'no project alternative'. If this project were not to be approved here, it would remain empty. The closed auto repair shop across the street has been a catalyst for blight in the area. To have this property sit empty would have a very negative effect.

Findings for the Draft Negative Declaration could be based in part on the history of the property in its current form. There are no negative impacts to the creek, the hillside, the air quality, the traffic and parking or any of the other issues. With the added protections this new project will put in place, it is hard to see how it will be different.

Having reviewed the report and the studies it refers to, I believe adequate review has been done and the Negative Declaration is sufficient.

Thank you.

Theresa Quiroz

Letters of Comments and Responses

Sent: Tuesday, April 16, 2019 1:18 PM
To: Tirandazi, Firouzeh <FTirandazi@sandiego.gov>
Cc: Benally, Rhonda <RBenally@sandiego.gov>; DSD Records Requests <DSDRecordsRequests@sandiego.gov>; Masterson, Nichelle <NMasteron@sandiego.gov>; CLK City Clerk <CityClerk@sandiego.gov>
Subject: RE: Marijuana Outlet at 2281 Fairmount Avenue -Current B&B Automobile Repair commercial use. Project No. 607352 / SCH No. N/A

Dear Firouzeh Tirandazi,

The link to https://docs.sandiego.gov/citybulletin_publicnotices/CEQA/PN1300%20P%23607352%20Draft%20ND%20Date%204-16-19.pdf was very helpful

I think the plot map shows the high pressure Rainbow Pipeline that I am concerned about

The environmental review discounts the nature of amphibian breeding along the Auburn Creek and does not fully address the storm water wash concerns for Auburn Creek

I feel that there should be at least one employee van accessible ADA parking spot and at least one customer ADA van accessible parking spot, because of the special nature of the customer base

I do not fully understand the ingress and egress changes to prevent vehicular and bicycle accidents on this project. Fairmount is a notoriously high speed and poor sight line street. I think that egress should be restricted to RIGHT TURN ONLY and that that there should be NO LEFT TURN access into the property, because of the nature of Fairmount at this location

Is there going to be a bicycle lane and how wide will the sidewalk be?

I call to your attention the well documented indigenous peoples habitation sites in the North Chollas Valley over the ridge off Fairmount. During the construction of the SDPD Garage, which was considered fully disturbed, artifacts and native American burials were found.

I think further research is need concerning the earthquake fault that runs parallel to Fairmount in the East Ridgeview Neighborhood.

I believe that greater care needs to be taken in surveying the habitat along the hillside given the established California Gnatcatchers in the area and the Environmental sensitive multi species lands along the Chollas Valley, on the other side of the Ridge, at 47th Street and at the Environmental Preserves at the SDPD Garage

How soon do you predict that this project might proceed to construction? 3 months, six months or more?

Again thank you
 All the best,
 John Stump
 Under the Big Tree At 3 Leaf
 2415 Shamrock Street
 City Heights, California 92105-4515

Office: 619-281-4663 ☎ This number does not take Ex Parte Notices
 Cell: (619) No Published Number

NOT-FOR-HIRE NO SERVICES WITHOUT WRITTEN CONTRACT

- G-1. Refer to response A-1.
- G-2. Refer to response A-6 and A-7.
- G-3. Refer to response A-3.
- G-4. Refer to response A-12 and A-13.
- G-5. Refer to response A-12 and A-13.
- G-6. Refer to response D-1 and D-4.
- G-7. Refer to response A-14.
- G-8. Refer to response A-6.
- G-9. This comment pertains to the construction timeline of the project. This comment does not address the adequacy of the environmental document.

Letters of Comments and Responses

From: Tirandazi, Firouzeh [<mailto:FTirandazi@san-diego.gov>]

Sent: Tuesday, April 16, 2019 12:00 PM

To: John Stump <mrjohnstump@cox.net>

Cc: Benally, Rhonda <RBenally@san-diego.gov>; DSD Records Requests <DSDRecordsRequests@san-diego.gov>; Masterson, Nichelle <NMasterson@san-diego.gov>

Subject: RE: Marijuana Outlet at 2281 Fairmount Avenue -Current B&B Automobile Repair commercial use. Project No. 607352 / SCH No. N/A

Hello Mr. Stump,

I am in receipt of your voicemail and email below. The weblink below (as provided on the Public Notice) is for the draft Negative Declaration and technical documents that went out for public review today.

-
<https://www.sandiego.gov/city-clerk/officialdocs/public-notice>

You may also make an appointment to review the project file in Records office. Please let me know when you wish to come in to review the file. I will be at City Council this afternoon and will be able to have the file available for your review in Records (located on the 2nd floor of DSD building at 1222 First Avenue, as early as tomorrow morning.

Thank you,

Firouzeh Tirandazi

Development Project Manager III
City of San Diego
Development Services Department
T 619-446-5325
SanDiego.gov

Visit SanDiego.gov/DSD to pay invoices, schedule inspections, check project status, request a code enforcement investigation and other online services.

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From: John Stump <mrjohnstump@cox.net>

Sent: Tuesday, April 16, 2019 11:45 AM

To: Tirandazi, Firouzeh <FTirandazi@san-diego.gov>

Cc: Benally, Rhonda <RBenally@san-diego.gov>; DSD Records Requests <DSDRecordsRequests@san-diego.gov>; Masterson, Nichelle <NMasterson@san-diego.gov>; 'lgates@san-diego.gov' <lgates@san-diego.gov>; Harrison, Tiffany <THarrison@san-diego.gov>

Subject: RE: Marijuana Outlet at 2281 Fairmount Avenue -Current B&B Automobile Repair commercial use. Project No. 607352 / SCH No. N/A

Letters of Comments and Responses

G-10. Access to the Project would occur from one 24-foot wide driveway on Fairmount Avenue, south of the project site. Access would be configured as shown on the site plan, Figure 2 of the Negative Declaration.

G-10

Dear Firouzeh Tirandazi,

Thank you for responding to my 20 question /Comment email.

I need to review the basic file on this project in sufficient time to make informed comments by May 6, 2018 deadline. If project file and reports are not available ; please extend the comment deadline to provide the public with a reasonable period to review the file and then make informed comments.

A central question is whether the proposed project will occupy only the single lot fronting on Fairmount Avenue and whether there will be any other access to the project from any direction but Fairmount Avenue.

All the best,

John Stump

Under the Big Tree At 3 Leaf

2415 Shamrock Street

City Heights, California 92105-4515

Office: 619-281-4663 ☎ This number does not take Ex Parte Notices

Cell: (619) No Published Number

NOT-FOR-HIRE NO SERVICES WITHOUT WRITTEN CONTRACT

From: Tirandazi, Firouzeh [<mailto:FTirandazi@san-diego.gov>]

Sent: Tuesday, April 16, 2019 10:33 AM

To: John Stump <mrjohnstump@cox.net>

Cc: Benally, Rhonda <RBenally@san-diego.gov>; DSD Records Requests <DSDRecordsRequests@san-diego.gov>; Masterson, Nichelle <NMasterson@san-diego.gov>

Subject: RE: Marijuana Outlet at 2281 Fairmount Avenue -Current B&B Automobile Repair commercial use. Project No. 607352 / SCH No. N/A

Good Morning Mr. Stump,

Thank you for your email. I have added your contact information to the noticing list for the project (Project No. 607352) as requested.

As the recognized Community Planning Group for the community, the City Heights Area Planning Committee is on the distribution list for project plans, assessment letters, and related noticing for proposed projects in the community.

Please provide the mailing address for the Ridgeview Neighborhood Association should this association wish to be added to the public noticing list for the project.

Lastly, I am forwarding your email to our Records section to contact you to coordinate your request, highlighted below, for copies of requested documents.

Thank you,

Firouzeh Tirandazi

Development Project Manager III
City of San Diego

Letters of Comments and Responses

John Stump
2413 Shamrock Street
City Heights, California 92105
619-281-4663 mrjohnstump@cox.net

May 6, 2019

City of San Diego, Storm Water Department, Planning Department; Transportation and Streets, Public Utilities and City Clerk

RE: Projects PTS No. 630996 Group Job 968 – Home Avenue /Fairmount Avenue Water and Storm drain; Project No. 607352 – Marijuana Outlet 2281 Fairmount Avenue; Project No. 593686 – 4337 Home Avenue Marijuana Outlet; and Capital Improvement Projects proposed in the Mayors's 2020 City of San Diego Budget – Capital Improvement Projects

Dear Angela Nazareno; Ms Rhonda Benally; Mr. Gary Geiler; Mr. Firouzeh Tirandazi; Mr. Mark Brunette, Environmental Planner and DSDEAS@sanidiego.gov

I have received four notices concerning two (2) pending and proposed Marijuana Outlets, listed above, a significant Storm Water and Water Utility pipeline project at Home Avenue / Fairmount Avenue, listed above, a pending additional Marijuana Outlet project on the south side of Home Avenue, in the ARCO Gas Station parcels; and the pending Capital Improvement Projects for Home Avenue, Fairmount Avenue, Federal Boulevard, and Euclid Avenue. All of these projects are within the small and sensitive watershed of Auburn Creek in City Heights. I am concerned that these projects have or will have **cumulative effects and impacts** on the people and environment of Auburn Creek watershed area.

Earlier this month, I provided some twenty comments and concerns regarding Project No. 607352 – Marijuana Outlet 2281 Fairmount Avenue. These initial comments are excerpted below:

"I have received your notice concerning of the above listed project which would convert a long term automotive and truck repair use to a retail marijuana outlet. The conversion of limited light industrial use to a large volume retail operation raises serious concerns, as follows:

1. *The current building has long been an automobile repair operation. It should be checked and examined for toxics from the current use and past uses. The change to retail and higher employee concentrations might expose the public and employees to higher levels of accumulated toxics as the change of use from an open air flow through multiple garage doors business to a closed doors high security operation, with limited air flow. The current building use has open air*

Cumulative Impacts Auburn Creek 1 OF 5

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H-1. This letter written by Mr. Stump, dated May 6, 2019, is a duplicate of the letter dated May 8, 2019, Letter B. Refer to responses B-1 through B-8.

Letters of Comments and Responses

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cont.

flow, East to West through truck size garage doors on both sides of the current building;

2. The current building has a small number of employees with inadequate onsite parking for the employees and customers, as evidenced by daily offsite vehicle transfers to on street and offsite parking;
3. The building has substantial and numerous electronic cell or transmission equipment which should be evaluated for appropriateness and safety for increased number of employees and customers over extended hours of operations and hours. The current business operates only Weekdays and on a limited daily hour of operation schedule. The new Conditional Use Permit should restrict the hours of operation to no more than the current limited hours of operation;
4. Is the new use going to have a more extended schedule of hours of operation and days of operation? How will the new CUP limit the hours and nature of operations to no more than the current hours of operation?
5. The subject Notice identifies correctly that the proposed project is adjacent to a high fire hazard hillside backing up to residential homes; but it does not state how this known hazard is to be mitigated. The Notice fails to identify that this hillside is well known as habitat for California Gnatcatchers and other listed species of fauna and flora. There is an established Environmental reserve to preserve this habitat about a mile West, of the project behind the SDPD Police Garage.
 - a. The Flora & Fauna habitat impacts must be evaluated and mitigated
 - b. The Fire hazards must be mitigated so that the adjacent hillside is protected by a clear and fenced off fire buffer installed
6. The Notice correctly identifies that the subject property is within an established flood zone. It does not make clear that the subject property's Northern boundary is the Auburn Creek, a listed impaired tributary of the North Chollas Creek draining directly into San Diego Bay. The impacts to the Auburn Creek must be evaluated and at minimum include the following:
 - a. Mitigation measures to prevent storm water flow from impervious surfaces into Auburn Creek;
 - b. Removal of nonnative and invasive plant species currently present like Castor Bean, Arundo, Eucalyptus and related weeds;
 - c. Fencing and drainage corrections to prevent wash into the Auburn Creek; and
 - d. Restoration of sensitive habitat damaged by current uses and proposed uses;
7. The area has a long established unsheltered population that inhabit the hillside adjacent to the property and gain access from the lack of continuous security fencing surrounding the property, including the Auburn Creek and Hillside and rear of property. These areas need to be fenced off to prevent sales, operations, and after hours entry from the non-street side Fairmount entrance. There currently seems to be repair operations on two sides of the existing building, through east and west garage doors;

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8. *Trash and Recycling facilities seem to not be present on the property. Screened and secure waste disposal facilities, of appropriate size and volumes, need to be required in any CUP permit;*
9. *The property currently has insufficient parking for the current limited truck and vehicle repair operations. The project should be carefully evaluated for the number of parking spaces for both employees and customers and deliveries. The parking should fully conform with the number of ADA blue van accessible spaces for the employees and customers and the number of ADA spaces listed in the CUP;*
10. *The Noticing of this project should include Noticing to the adjacent property owners, the Ridgeview Neighborhood Association and City Heights Area Planning Committee;*
11. *The project should be Noticed to the State Fish and Game and Regional Water Quality agency because of the impaired nature of the adjacent Auburn and Chollas Creek and habitats;*
12. *The Corp of Engineers and FEMA should be noticed because of the well-established and continuous flooding of this area;*
13. *Fairmount Avenue (47th Street) is a high speed commercial route to Home Avenue and the I-805 freeway. This property has substandard sight lines for egress and ingress. These dangerous conditions require additional pedestrian, bicycle, and vehicle safety considerations. In addition to standard **sidewalks**, curbs, and gutters, with improved sight lines, there should be further study of striping and other traffic control measures to encourage safe pedestrian and bicycle access and limit out of direction crossing into and out of this property. The adjacent curbs should be painted and signed **No Parking** to improve sight lines for safety;*
14. *Sidewalks and bicycle access is particularly important as there is an adjacent bus stop;*
15. *There is a documented earthquake fault that runs over the ridge adjacent to this property, the project should be evaluated based on the known fault and building foundations and construction;*
16. *The Department of Toxic Substance Control should receive notice of this project and asked to evaluate that the long term past uses may have created a yet undocumented residue of toxic substances;*
17. *The timing of proposed demolition and construction should be timed so as not to interfere with listed species breeding and fledging;*
18. *Project lighting must be appropriately screened and shaded; so as not to cast light on or interfere with the reproductive amphibian species that use the adjacent Auburn Creek;*

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19. *Street visible and billboard advertising should be restricted at this site, in its CUP. The proposed project should not be permitted to advertise on the adjacent Fairmount Avenue Billboard.*
20. *I believe that the very High pressure natural gas pipeline passes directly in front of the proposed project. The pipeline is larger and older than the infamous San Bruno pipeline. Location of more intense employee and customer operations should be evaluated against the existence of this hidden hazard. Appropriate mitigation could include fire and blast deflection measures, like window and door openings or limitations on sensitive construction facing the pipeline. "*

In today's, Union Tribune newspaper there was reporting of "DEA investigating Mira Mesa cannabis lab explosion"
http://enewspaper.sandiegouniontribune.com/infinity/article_share.aspx?guid=c9922511-5281-472b-9e11-f3f25cebafae

My previous comments made mention of fire hazards for this location but I had not considered the flammable and explosive nature of solvents used in these Marijuana operations or sales. Please evaluate the increased fire hazards presented by all marijuana operations, particularly sited along the hillsides of the Auburn Canyon or adjacent to Gasoline distribution locations, or near the Rainbow Pipeline.

Over the weekend, I prepared the attached Auburn Creek and Auburn Canyon, white paper to identify issues and resources that must be considered to fairly evaluate any projects in this environmentally sensitive area. I listed some twenty-eight studies and reports that should be considered by project reviewers. I also request that the reviewers read the CEQA /NEPA reports/studies referenced in my white paper and related area CEQA /NEPA reports/studies in this are prepared by the City of San Diego, County of San Diego CALTRANS, and the San Diego Unified School District for their water shed.

I request that my earlier 20 comments, this letter, and the attached white paper be considered as comments on **all** of these area projects.

Additionally, it has come to my attention that the real parties in interest may not have been fully identified concerning the three (3) Marijuana Projects. Please carefully review who is the owner, property owners, and beneficiaries in the granting of these project applications. I strongly suggest that the applicants be very carefully queried to establish the real parties of interest.

Please physically post the notice of these applications and provide Notices to all property owners within 300 feet and the area neighborhood associations for Fairmount Park, Bridgeview Association, Ridgeview Association, Isle Nair Association, Fox Canyon Association, and Azalea Park Association.

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cont.

I request written responses to these comments and the white paper, which is incorporated by reference. I further request reasonable notice and the opportunity to attend any hearing held on these projects

I have attached my referenced white paper which is incorporated by reference.

All the best,

/s/

John Stump

Attachment

JWS/st

Letters of Comments and Responses

Attachment 1

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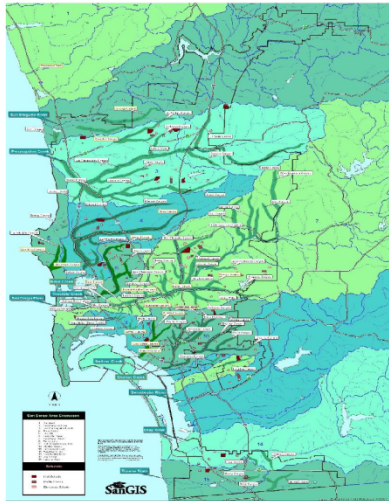
AUBURN CREEK AND AUBURN CREEK CANYON

I. LOCATION AND SETTING:

Auburn Creek and Auburn Creek Canyon are natural features located in the United States of America, State of California, County of San Diego, Charter City of San Diego, and Community of City Heights, CA 92105. The Auburn Creek and the Canyon it created roughly flow from North of University Avenue, at 52nd Street, to Federal Boulevard, at Home Avenue. The Auburn Creek had a very extensive flood plain that has largely been filled in or channelized. Auburn Creek's flood plain was the majority of the Fox Canyon neighborhood and valley that contains Home Avenue.

The Chollas Canyon is one of several east west parallel canyons in Mid City – Mission Valley. Manzanita – Lexington Canyon, Auburn Canyon, and Chollas Canyon. Manzanita Canyon, Auburn Canyon, and Chollas Canyon are part of the Chollas Creek watershed. The watershed begins along the south side of El Cajon Boulevard ridge and flows south until it cuts out east west canyon channels that connect and lead to the San Diego Bay. The La Nacion earthquake fault system influences this watershed.

Auburn Creek is a tributary of the North Chollas Branch of the Chollas Creek that all drain as the Chollas Watershed into San Diego Bay. The Auburn Creek and Canyon system is about three (3) miles in length. A map of the Chollas Watershed is presented below:



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Another presentation from the San Diego GroundWorks nonprofit is presented below:



The 1904 USGS map of San Diego is presented at:

<https://www.sandiego.gov/sites/default/files/legacy/city-clerk/pdf/historicalmaps/sdusgsma.pdf>.
It is interesting to note that references to Chollas on early maps are to "Las Choyas".

Auburn Creek was designated by action of the San Diego City Council as a natural water body during its deliberation on the Federal Emergency Management Agency (FEMA) Flood Plan, on October 7, 2008- Agenda Item 109. City Council, after receiving my testimony and the attached letter, of the same date, took action as follows:

"COUNCIL ACTION: (Time duration: 5:29 p.m. — 5:39 p.m.) MOTION BY FRYE TO ADOPT WITH DIRECTION TO STAFF TO INCLUDE AUBURN CREEK IN THE FLOOD MITIGATION PLAN AND ALL COMMENTS MADE BY MR. JOHN STUMP FROM HIS LETTER DATED OCTOBER 7, 2008, TO BE ANNOTATED TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY. Second by Falconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins not present, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Huco-yea." (Minutes 10-7-2008, #10)

Subsequently, the San Diego Planning Commission took similar actions to designate and name Auburn Creek.

Auburn Creek gains its name from the subdivision street names at its origin. City Council took this action to preserve and enhance the well-established historic nature of this creek; its

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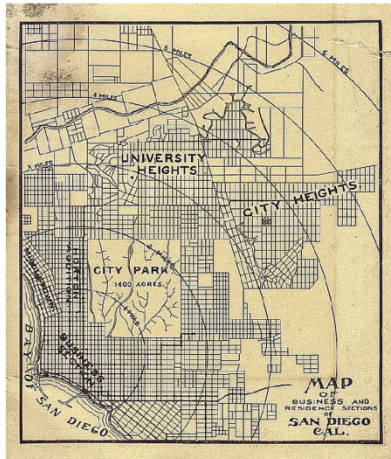
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cont.

continual human use for recreational and gathering uses; and in recognition of the valuable habitat it provides to listed and endangered species of plants and animal. Nearly every CEQA Environmental Impact Report and study of this water body has identified its historic use by Native Americans; the presence of valuable plants and animals along and within its shores; and the current and future uses of this creek to provide a needed recreation setting for needed parks and open spaces. (Please see the City studies for Wightman Park, Fox Canyon Park, and the Central Police Garage & SD City Schools studies for the Mary Fay Elementary School). Auburn Creek had sufficient habitat value, for California Gnatcatchers and other species, that the City of San Diego set aside some 18 acres of special environmental preserve, adjacent to the Auburn Creek to mitigate for the impacts from the construction and operation, of the Police Central Garage, at Home Avenue and Federal Boulevard. Auburn Creek is unique amongst the tributaries of the Chollas Creek, as its source is a spring. Auburn Creek is the defining water feature of City Heights. Auburn Creek provides City Heights its natural link to the San Diego Bay. [Letter, May 11, 2010, CHOLLAS RESTORATION, ENHANCEMENT AND CONSERVANCY to San Diego Planning Commission, RE: AUBURN CREEK designation in proposed Master Storm Water System Maintenance Permit (Item # 6)]

Presented below is an early 20th century map of the City of San Diego street system showing both the incorporated City of San Diego and the unincorporated portions of San Diego – east of Boundary Street? Auburn Creek begins approximately 5 miles east of the San Diego Bay.



The Auburn Creek headwaters were not part of the original City of San Diego boundaries but were annexed into the City of San Diego by vote of the residents of both the City of San Diego and then independent City of East San Diego. SEE: Union Tribune Newspaper

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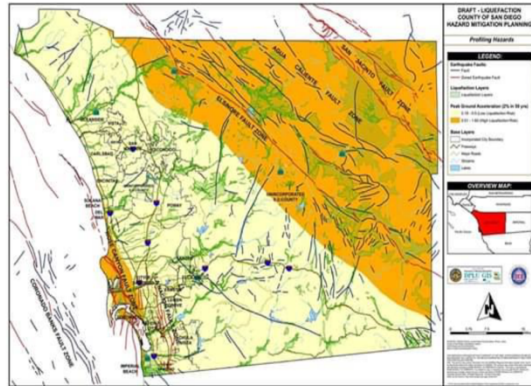
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<https://www.sandiegouniontribune.com/news/150-years/sd-me-150-years-december-30-htmlstory.html>

The Auburn Creek begins North of University Avenue just Southwest of the Colina Del Sol Park. The spring source is from the La Nacion earthquake fault. See: ARCH 01, 1973, La Nacion Fault System, San Diego, California, ERNEST R. ARTIM, CHARLES J. PINCKNEY, GSA Bulletin (1973) 84 (3): 1075-1080. [https://doi.org/10.1130/0016-7606\(1973\)84<1075:LNFS&2.0.CO;2](https://doi.org/10.1130/0016-7606(1973)84<1075:LNFS&2.0.CO;2) The fault causes a small weeping spring that keeps Auburn creek moist throughout the year.



The California Environmental Quality Act (CEQA) study for the proposed Mary Fay Elementary School, conducted by the San Diego Unified School District. See: PROPOSED MARY FAY ELEMENTARY EIR, SDUSD. The study concluded that the initial preferred school site should be relocated because of the earthquake fault and the toxic materials leaking into the Auburn Creek aquifer from the former San Diego Pipe use- Now San Diego Mission Resale Store. The subject property that became Wightman Park was purchased as a result of an Inverse Condemnation action brought by property owner, of a motel housing complex, because the property flooded. SEE: Mezker v City of San Diego; CREAC v City of San Diego, INTERIM REPORT NO. 14, THE ONTARIO AVENUE CONNECTION AND FOX CANYON PARK, REPORT OF THE SAN DIEGO CITY ATTORNEY MICHAEL J. AGUIRRE, 27 February 2007, 56 pages [http://sdcityattorney.com/Interim Reports/IR-14_Fox_Canyon_Park_20070227.pdf](http://sdcityattorney.com/Interim%20Reports/IR-14_Fox_Canyon_Park_20070227.pdf)

The earthquake fault is also present in the Ridgeview neighborhood. The major high voltage electrical power transmission lines follow this earthquake fault. The high voltage lines cross Home Avenue, continue into the Ridgeview subdivision –between Wendell and Clematis Streets. These large electrical transmission lines then enter into the Chollas Canyon, created by the North Chollas Creek tributary, of Chollas Creek.

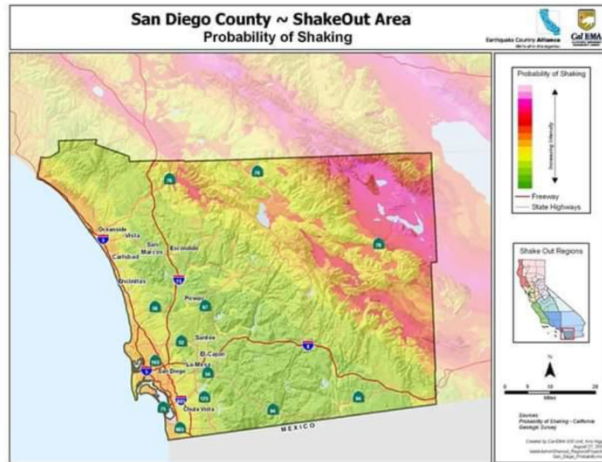
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On the South side of University the CEQA study for the Wightman Street Park - <https://ceqanet.opr.ca.gov/2010041108/2> studied Auburn Creek extensively as it is a defining and limiting feature of this park. This study identified flooding conditions and the location of toxic materials and water conditions. SEE: Fox Canyon Dropped, *Voice of San Diego*, November 27, 2006, "The City Council ended its pursuit of developing a park and road in Fox Canyon on today, deciding instead to settle a legal challenge brought against the [controversial project](#). A community group called Friends of Fox Canyon sued over the [council's decision in March](#) to approve an environmental review for the City Heights park-and-road proposal. The review said that the extension of Ontario Avenue and construction of a small, adjacent park would have a minimal impact on the surrounding environment, which includes Auburn Creek. The study allowed the park-and-road proposal to move forward in the planning process. The council voted Tuesday to withdraw its approval of the study after tentatively agreeing to those terms in a private meeting this October. Councilman Jim Madaffer, whose district includes Fox Canyon, said he reluctantly supported settling the lawsuit, even though the agreement ended up killing the project he has very visibly championed. He blamed "community politics, the struggle for power and greed" for the proposal's demise. Only Council President Scott Peters opposed the settlement. The council will discuss redirecting the state grant the city received for Fox Canyon for another area of the City Heights neighborhood, on Wightman Street, next week. "Also, [A Park? A Road? By Joe Deegan, Jan. 11, 2007](#), <https://www.sandiegoreader.com/news/2007/jan/11/park-road/#>

City of San Diego City Attorney Michael J. Aguirre, issued an extensive report on the Fox Canyon and Auburn Creek area as a result of the above cited dispute. The report details schemes to misuse State and local funding and overdevelop Auburn Creek and its water shed. SEE: [INTERIM REPORT NO. 14, THE ONTARIO AVENUE CONNECTION AND FOX CANYON](#)

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PARK. REPORT OF THE SAN DIEGO CITY ATTORNEY MICHAEL J. AGUIRRE, 27 February 2007, 56 pages http://sdcityattorney.com/Intemim/Reports/IR-14_Fox_Canyon_Park_20070227.pdf

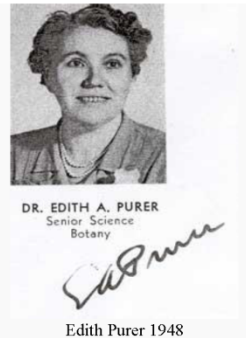
Prior to annexation of the Auburn Creek / Fox Canyon area into the City of San Diego, it was an entertainment and camping area just outside of the City of San Diego. The Auburn Creek formed a small lake or pond at this area. The University Avenue trolley terminated close to this site and several amusement features were built in this area – including the Mission Ballroom, Tower Bar, and Egyptian Garage. Overtime, the amusement nature of Auburn Creek was traded for more extensive housing development and the Auburn Creek channel was moved, relocated, channelized or placed into box culverts.

Auburn Creek regularly floods because its natural flood plain has been built over, the creek placed in confined channels or box culverts and the amount of water shed to it increased because much of the watershed has now been developed with impervious structures, surfaces, and roadways.

II. LISTED FLORA FAUNA :

The Chollas Creek watershed has a long prehistoric human occupation and was a valuable human habitation resource area prior to the arrival of the Spanish, beginning with the Pedro Fages occupation. The transit of indigenous peoples from the Bay inland along the Chollas watershed was noted by Conquistador Pedro Fages.

Current environmental reviewers often mistakenly begin with a prejudice that the Chollas watershed area could not contain any valuable habitats or listed flora and fauna species because the area has long been urbanized and developed. By the beginning of the 20th Century much of the first mesa of the Chollas watershed had been scraped and leveled for subdivision development. Pictured is the intersection of University Avenue at Euclid by Auburn Creek.



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"San Diego County vernal pools were largely ignored in the early 1900's. The only attention they received was from thirsty livestock and ranchers who filled them in with dirt while attempting to level their land. Edith A. Purer presented one of the first scientific papers fully describing the habitat to the Ecological Society of America in 1937. A science teacher at San Diego's Hoover High School, Purer spent her summers studying the county's natural history and became San Diego's first female professional ecologist. She was also the consummate citizen naturalist.

Purer's survey of San Diego's Linda Vista Mesa described "thousands of pools filling the small depressions of the mesa, intercepted throughout by low, rounded hummocks." The key words here are "thousands of pools." Within forty years of Purer's study none remained, having been filled in and covered over by the burgeoning growth of an expanding city. The remaining collections in the entire county would have disappeared as well if the scientific and environmental communities had not belatedly rediscovered them in the late 1970's and publicly revealed the treasure trove of specialized life forms living there. Half the plant species growing within California's vernal pools are found nowhere else on earth. This compares to 24% of all California plants being endemic, a remarkably large number itself.

In a sudden explosion of interest, vernal pools were regarded as deserving protection and endemic species were listed as endangered or sensitive. Unfortunately, a few developers did what they could to avoid the new restrictions by bulldozing pools on their land before the laws took effect. Pools continue to be destroyed today despite their legal protection. The few remaining represent a tiny fragment of a once large network of ephemeral wetlands punctuating the chaparral like liquid sapphires.

Before development there were an estimated 28,500 acres of vernal pool habitat in San Diego County. Mesa tops, like the one where San Diego State University now rests, were covered with so many pools that aerial photographs taken back in 1928 look like carpets textured with thousands of tiny, evenly spaced dots. Those are all gone now. When the county was last inventoried in 1986, only 7% of the original vernal pool habitat remained. Fewer than 2,400 pools existed in 2001. Of those surviving, some are temporarily protected in restricted areas like the Miramar Air Station or Camp Pendleton, but their futures are still uncertain; others remain vulnerable because they exist on private land." **Vernal Pools: Liquid Sapphires of the Chaparral, California Chaparral Institute** <http://www.californiachaparral.com/vernalpools.html> SEE: ECOLOGICAL STUDY OF VERNAL POLLS, SAN DIEGO COUNTY; Edith A. Purer, Hoover High School, Ecological Society of America, Volume 20, No. 2, pp 217-229

Fortunately for the Mid-City Heights area and the Chollas Creek watershed in particular, the Chollas Creek flood plain and canyons were not as quickly developed as the dry mesa flat tops. The Chollas Creek watershed preserved significant habitat for listed flora and fauna. California Environmental Quality Act (CEQA) and National Environmental Protection Act (NEPA) reports and studies have identified that the Chollas Watershed contains endangered and listed species, particularly in its canyon bottoms and south facing slopes. Notable studies are the Chollas Canyon Master Plan – Sunshine Berardini Fields; Fairmount /47th Street Bridge overcrossing; Central Police Garage, K-9 and Police Firing Range; Mary Layton Fay Elementary School; Webster Elementary School; City Heights

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cont.

Redevelopment Project Area; and SR-15 Freeway. All of these studies identified that the Chollas watershed provided valuable habitat.

A study on the distribution of the listed California Gnatcatchers identified a population in Chollas Canyon, along the North Chollas creek, off Federal Boulevard. SEE: DISPERSAL CAPABILITY OF THE CALIFORNIA GNATCATCHER: A LANDSCAPE ANALYSIS OF DISTRIBUTION DATA, ERIC A. BAILEY and PATRICK J. MOCK, Ogden Environmental and Energy Service Company, 5510 Morehouse Drive, San Diego, California 92121 (current address of Mock, as corresponding author, Dames & Moore, Inc., 9665 Chesapeake Drive, Suite 201, San Diego, California 92123).

The above cited CEQA/NEPA studies/reports and the above cited Gnatcatcher study led to the dedication of an Environmental Reserve along the Auburn Creek /Canyon, at Home Avenue and Federal Boulevard, above the San Diego Police Campus. Further, a Multiple Species Habitat has been established along 47th Street in the Chollas watershed. SEE: [CITY OF SAN DIEGO VERNAL POOL HABITAT CONSERVATION PLAN](#) ,October 2017, https://9670f26306f0aa722eb1-bf8a0720b767c6949515361a19a9737f.ssl.cf2.rackcdn.com/uploads/website_attachment/attachment/161/vph-cp.pdf

III. INDIGENOUS PEOPLES' HABITATION:

Indigenous peoples have long inhabited the Chollas water shed and Auburn Creek / Canyon area. Pedro Fages, Spanish explorer and founder of the Presidio of San Diego wrote a report letter excerpted below:

"Your Illustrious Lordship-My dear Sir: The lack of people and the illnesses which God has deemed to send us have been the cause of many setbacks because the objects of greatest weight and the affairs of major consideration, all demanding attention and care, have left little room for those of less importance. I do not wish to say by this that the matters for which your Excellency commissioned me in the Instructions that you saw fit to dictate are of little consequence, but Your Excellency also knows that their nature requires tranquility and serenity of soul for them to be carried out. These are benefits we have little enjoyed here.
Having recently arrived at the Port and constructed our quarters (work in which Don Pedro Fages and I did not excuse ourselves), we applied all attention to the alleviation of the poor sick ones.²⁶ The number of these was quite high, and those who were still on foot was very small. Many are the things to be attended to at one time: the care of our own defenses occupied some and on occasions everyone; the rations and attendance of the sick occupies others; also the firewood and water, to which is added the bringing from on board that which is required for sustenance and other purposes. These are necessary and indispensable tasks which we know are fatiguing to the people who are already weak and thin, wracked by the scurvy of which not even I am exempt.
In order to recover from it and not to find ourselves in the extreme danger that we began to fear, which was for not one man to remain, we gave a hand to all the work, performing all services even to the lowest ministrings of a nurse.
As soon as the first portion of the land expedition had arrived,²⁷ we changed our quarters to a better site adjacent to the water source even though it was some distance from the ships. With the arrival of the new people, we no longer had the inconvenience of having to separate the forces. The mules facilitated the portage and helped us achieve that which was appropriate for the greatest utility and comfort for all.
In the new quarters, using the same precautions as in the first, we also built another pole stockade for our security and put up some large sheds in order to cover the provisions and equipment of the expedition.

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In the midst of these tasks and the inconvenience of our quarters, I have not neglected to gather together the necessary materials to draw up later, when time permits, the charts, maps, and reports that Your Excellency commissioned me to prepare for the correction of the older sailing plans and charts which, according to what I am experiencing, differ somewhat from the truth and suffer serious errors. The first is that the Port of San Diego is not found nor ought to be looked for in 33 degrees as Vizcaino said,²⁸ much less in 34 where the Pilot Cabrera Bueno has it situated;²⁹ but rather in 32 degrees 32 minutes of latitude under which, with little difference, lies the point or extreme of the hill [Point Loma] which encloses said port on the west side.³⁰ This hill, which Cabrera Bueno gives as one of the signs of the Port of San Diego, is a part of an irregularly shaped but very long peninsula. To the north northwest said peninsula also forms the other port of which Torquemada speaks [False or Mission Bay] and which is known to be very full of sandbars.³¹ There might be some channel between these where ships of light draught could enter.

The same hill [Point Loma] might be two leagues in length and runs approximately north northwest and south southeast along the same course as runs the east coast of the port for more than four leagues at eye judgment.

One cannot enter the port with the wind to the northwest, but coming in with an outside tack one can anchor on the point and afterwards lie in wait in order to catch the protection of the hill. From this point to the east coast there are two leagues of crossing, but nevertheless one cannot ply to windward between the two because there are so many sandbars along that coast that whoever tries it is exposed to running aground.³² The surest way to enter is to reach at about the distance of a pistol shot from the hill and west coast until arriving at Ballast Point, which is good for ballast, and where the ships are protected from the winds of the sea. The terrestrials are not capable of much discomfort, only the northwind comes across the flat and open land.

Ballast Point and another point on a very long and narrow tongue of land which comes out from the east coast [North Island] form a mouth of one-fourth league of width where the sea enters from different directions; this is what [Cabrera] Bueno calls estuaries; these are ports of immense capacity but little depth. Our packetboats run very far inside at high tide for the purpose of getting as close to the water hole as possible. We did not achieve this as we had hoped despite untiring effort and there remained a distance of one league or less from the water hole.

The taking on of water in this port will always be difficult, and in time of drought as now, when the water does not run in the wash, it will be impossible. Without having mules to do the work as we do it today, that is carrying the barrels from the well from which the water is drawn to the shore of the sea more than one-quarter league distant to where the launches receive it.

The water of the wells which were dug by the men of General Vizcaino on the tongue of land or sand of which Torquemada spoke is very salty and only in an urgent case of necessity is one able to drink it and then with danger to his health.³³

The attached sketch serves to clarify the idea which I am giving Your Excellency of this port. It is the same as the one I made of it after inspecting the land. I am not claiming it to be an exact plan since, as I explained to Your Excellency, I have not had the time nor the means to prepare it. To make it with precision would require many days of hard work.³⁴

Regarding the settlement of this land, the character and industry of its inhabitants and nature of the country, I will say to Your Excellency that what we have seen and experienced agrees with the account of Torquemada. The Indians are docile but inclined toward robbery and thievery; they covet everything and fall in love with anything as soon as they see it. They are lazy idlers and not very industrious. I have seen no other evidence of dexterity but their nets, which they weave very well from a thread that looks like hemp, but it is of ixtle fiber which they get from a very small species of maguey or mescal.

These nets serve as a belt and, at the same time, as an instrument with which to fish and hunt. In the woods they catch birds and little rabbits with them. They also make purses or very large sacks woven of rather fine net.

The men are entirely naked. The women cover their private parts with double nets cinched at the waist and reaching to the middle of their thighs. At times they also use a kind of little cape made of strips of fur interlaced and twisted. All randomly stain and paint themselves of various colors, among which I have observed they prefer that of red and ochre. Some use lead-colored black and they look hideous.

These are people of little ambition and they recognize our superiority in arms and in all the rest. They have bestowed great affection upon Don Pedro Fages and they also respect him very much.

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They have invited him at various times to be with their women, an expression of friendship that the rest have not merited. They frequently come to our lodging from all the neighboring rancherias around the port, on which occasions they have traded some nets or otter furs in exchange for cloth or handkerchiefs. The otters must be rare or they do not dedicate themselves much to hunting them because they have brought few furs despite our having asked by signs for them repeatedly.

I cannot tell Your Excellency exactly how many rancherias there are in the vicinity of these surroundings; but I believe there are no less than ten. Among these are some which are densely populated according to what I infer from the number of people who on occasions have been seen together.

They are never without their bows and arrows, which are the only arms that they use. In the beginning, when we had just recently arrived and they believed that our guns were some simple sticks, they wanted to exaggerate the strength of their arrows, which were armed with very sharp flints. But Don Pedro Fages, disposed on all occasions to win praise and show himself superior to all of them, ordered that a piece of leather that might serve as a target be placed at a convenient distance. He had them discharge their arrows and upon their seeing the mild effect that they had on the leather, he then ordered the most dexterous soldiers to shoot at the same target. Upon hearing the noise and seeing the destruction so close at hand, the Indians changed their expressions and some of the more timid ones left, giving very clear signs of their surprise and fear.

The huts on the rancherias in which we have been are round and finished in a pyramidal form covered with branches and earth. In each hut one or many families live, or better sleep, because by day all travel through the woods or go to the bay to look for sustenance." Copy of a letter written by Don Miguel Costansó from the Port of San Diego dated the 28th of June, 1769 [to José de Gálvez].²⁵ San Diego History Center,

<https://sandiegohistory.org/journal/1975/april/fages/>



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The Pedro Fages exhibition had intruded into the coastal paradise of the indigenous Kumeyaay peoples. "Evidence of settlement in what is today considered Kumeyaay territory may go back 12,000 years.^[1] 7000 BCE marked the emergence of two cultural traditions: the California Coast and Valley tradition and the Desert tradition.^[2] The Kumeyaay had land along the Pacific Ocean from present Oceanside, California in the north to south of Ensenada, Mexico and extending east to the Colorado River.^[3] The Cuyamaca complex, a late Holocene complex in San Diego County is related to the Kumeyaay peoples.^[4] The Kumeyaay tribe also used to inhabit what is now a popular state park, known as Torrey Pines State Natural Reserve.^[5]

One view holds that historic Tipai-Ipai emerged around 1000 years ago, though a "proto-Tipai-Ipai culture" had been established by about 5000 BCE.^[6] Katherine Luomola suggests that the "nucleus of later Tipai-Ipai groups" came together around AD 1000.^[7] The Kumeyaay themselves believe that they have lived in San Diego for 12,000 years.^[8] At the time of European contact, Kumeyaay comprised several autonomous bands with 30 patrilineal clans.^[9]

Spaniards entered Tipai-Ipai territory in the late 18th century, bringing with them non-native, invasive flora, and domestic animals, which brought about degradation to local ecology. Under the Spanish Mission system, bands living near Mission San Diego de Alcalá, established in 1769, were called Diegueños.^[10] After Mexico took over the lands from Spain, they secularized the missions in 1834, and Ipai and Tipais lost their lands; band members had to choose between becoming serfs, trespassers, rebels, or fugitives.^[11]

From 1870 to 1910, American settlers seized lands, including arable and native gathering lands. In 1875, President Ulysses S. Grant created reservations in the area, and additional lands were placed under trust patent status after the passage of the 1891 Act for the Relief of Mission Indians. The reservations tended to be small and lacked adequate water supplies.^[12]

Kumeyaay people supported themselves by farming and agricultural wage labor; however, a 20-year drought in the mid-20th century crippled the region's dry farming economy.^[13] For their common welfare, several reservations formed the non-profit Kumeyaay, Inc.^[14] SEE: Kumeyaay, From Wikipedia, the free encyclopedia, <https://en.wikipedia.org/wiki/Kumeyaay>



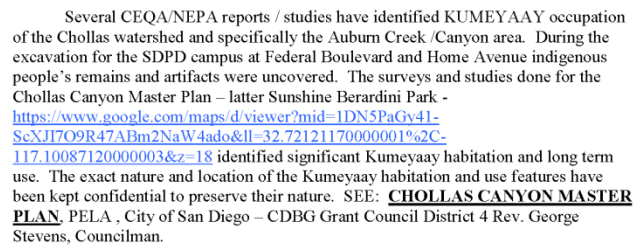
SEE: KUMEYAAY TERRITORY, THE KUMEYAAY TRIBES GUIDE of Southern California Tribal Bands of The Kumeyaay of Southern California... KUMEYAAY.info

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The Auburn Creek periodically floods the land and structures of City Heights. Flooding generally occurs because of overbuilding of structures, including road surfaces, with impervious surfaces that increase the amount of run off, in the watershed AND outdated flood control and creek road under crossings at key Auburn Creek sections. The City Storm Water team appears to not updated facilities to match the increased channel flow volumes, because of more accelerated

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run off or has not taken a comprehensive review of the design flaws that now exist at several key flood prone locations. The Auburn Creek flood incident locations are as follows:

- A. University Avenue Undercrossing;
- B. Wightman Street Park Undercrossing;
- C. Fairmount Street Undercrossing; and
- D. Federal Boulevard Undercrossing

There may be other occasional flood incident locations but the above are the most frequent and consistent causing human health and safety hazards and damage or loss to property. Flooding at these locations also may cause collateral damage from mold and the pollution down stream of additional undesirable materials washing into the Chollas Creek system and thus the San Diego Bay. A discussion of each of the four consistent flood incident locations follows:

A. University Avenue Undercrossing:

The undercrossing provided for the storm water runoff generated north of University Avenue is substantial. The area north of University Avenue to the mid line of El Cajon Boulevard, the watershed break, has been consistently urbanizing for more than a century. At first glance an aerial view of the Colina Del Sol neighborhood shows substantial open green space from the Colina Del Sol Park and Golf course; but little of this land is used as infiltration zone for storm water. A ground level inspection of the undercrossing challenge comes when viewing the virtual dyke necessary to raise up University Avenue between Oak Crest Drive and 51st. This dyke raises up University but interferes with the remnant Alta Dena Canyon between these streets.

On the South side of the university Avenue dyke is a bit of the Auburn Creek Alta Dena canyon bracketed by Auburn Park apartment complex, to the east, and the Palms apartments to the west. The storm water is funneled to a modified Auburn Creek channel constructed to maximize usable pocket park space in Wightman Park, at Wightman Street.

Prior to the construction of the Auburn Park apartments the area flooded because of claims of inadequate undercrossing designs. Although the capital improvement redo of the University Avenue under crossings had long been a planned project these modifications have not occurred. Major and consistent flooding at the current site of the Wightman Street Park were the reason for the City's acquisition of the park site after settling a suit brought on the basis of inverse condemnation by the rental property owner Metzger. The engineering and hydrology evidence presented for this action clearly identified the design flaws for the handling of this storm water. SEE: Metzger Properties v. City of San Diego. Also see CREAC v City of San Diego and INTERIM REPORT NO. 14. THE ONTARIO AVENUE CONNECTION AND FOX CANYON PARK, REPORT OF THE SAN DIEGO CITY ATTORNEY MICHAEL J. AGUIRRE, 27 February 2007, 56 pages http://sdcityattorney.com/Interim_Reports/IR-14_Fox_Canyon_Park_20070227.pdf

The flooding that occurs because of the volumes and mis design / mis match have not been corrected and the University Avenue Undercrossing regularly floods the apartments units to the east of Wightman Street Park. During storm events apartment dwellers place sand bags in front of their doors but water often enters; so the apartments must be re dry walled. [It is unknown, but suspected, that these apartments may have significant mold and fungus because of repeated flooding.] Storm water passes across these properties on to Wightman Street adding to the substantial flow trying to reenter the Auburn Creek, directly south of Wightman Street Park, the low spot.

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Solutions possible for addressing the flooding from the University Avenue Undercrossing could include reducing the amount and speed of run off coming from north of University Avenue; redesign of the actual undercrossing to runoff directly to the south side of Wightman Street; and purchasing and demolition of the flooding apartments to diminish the health hazard and increase the flood plain park area by expanding Wightman Street Park to the east.

B. Wightman Street Park Undercrossing;

The flooding that regularly occurs at Wightman Street, directly across from Wightman Street Park is an accumulation of too much runoff storm water, at this low spot, from the east, west, and north AND a mis match of the both the undercrossing cross section and the street storm drain, on the south side of Wightman street. Both the street storm drain inlet and the Auburn Creek undercrossing lead into an ad hoc rectangular concrete channel with a bend, at this location.

During storm events the residential properties sand bag to attempt to prevent road wash storm water entry and they operate permanent sump pumps that drain into the south Auburn Creek channel. These residential properties are likely often wet and could have health hazards from mold.

There is an additional flooding hazard at this location. The flooding makes normal pedestrian travel across this school route impassible and the drowning hazard is significant. The very large street storm drain inlet is obscured and a child or a frail person could easily be swept into this obscured inlet.

Downstream, to the south of Wightman Street, residential units in the flood plain are frequently flooded and again could be subject to habitability hazards, including mold. The Auburn Creek flows along a poorly defined channel to the paper Ontario Street and Landis Street before reentering the Alta Dena Canyon system. This area regularly floods and had been overtopping the sanitary sewer man holes; so that mixing of sewer waste and storm water regularly occurred. Recently the City raised the manholes to attempt to avoid this overtopping and mixing. The area has a very bad appearance and is a regular site for dumping and crime. SEE: Regional Water Quality Board order concerning TMDL of E-coli in Auburn Creek; CREAC v City of San Diego and INTERIM REPORT NO. 14, THE ONTARIO AVENUE CONNECTION AND FOX CANYON PARK, REPORT OF THE SAN DIEGO CITY ATTORNEY MICHAEL J. AGUIRRE, 27 February 2007, 56 pages http://sdcityattorney.com/Interim_Reports/IR-14_Fox_Canyon_Park_20070227.pdf

Solutions possible for addressing the flooding from the Wightman Street Park Undercrossing should include immediate elimination of the pedestrian drowning hazard On Wightman Street and evaluation of the habitability of the flooding residential units adjacent to and immediately south of Wightman Street, low spot. The actual undercrossing should be re designed so as to carry storm water into an adequately designed open channel along Ontario and Landis Streets as an infiltration park swale.

The Alta Dena Canyon leading up to the Euclid Street undercrossing must be carefully designed and sized. Care must be taken to avoid flooding of adjacent residences and the two or more schools and day care centers.

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Flooding has not been regularly observed at the triple intersections of the two Euclid Avenues and Home Avenue; but this continuation of the Auburn Creek Canyon should be carefully evaluated as traffic calming and pedestrian safety measures need to be made at this triple convergence as there have been pedestrian injuries and deaths here. SEE: [Zero Traffic Related Fatalities and Severe Injuries by 2025](#), City of San Diego, <https://www.sandiego.gov/vision-zero/Fiscal Year 2020 Proposed Budget, Volume III: Capital Improvements Program>, City of San Diego https://www.sandiego.gov/sites/default/files/pb_v3tsw.pdf –Transportation & Storm Water City Heights Pedestrian Imp Phase 2 / S18009 at pages 446-447; Transportation & Storm Water Euclid Avenue & Home Improvements / S00886 at page 453; and Transportation & Storm Water Minor Bike Facilities / AIA00001 at page 471. Further, SEE: CEQA and design comments concerning the CHARLES LEWIS III Park, on Home Avenue –specifically traffic crossing, signals, and safety signage. The traffic signal, improved crossing and speed limiting signage was called out as a pedestrian crossing death occurred at this location during the park's planning.

C. Fairmount Street Undercrossing

The flooding that regularly occurs at Home Avenue, east of Fairmount Street is likely caused by a combination of too much high speed storm water volume exiting nearly a half mile of constrained concrete box culvert into a short obsolete section of open concrete channel and then attempting to reenter a too small cross section outdated undercrossing at Fairmount Avenues. The high speed water over tops the open channel and floods across the intersection of Fairmount and Home Avenues. Existing Home Avenue storm drains cannot drain down and away storm water until the higher Auburn Creek channel falls below overtopping flood levels.

Flooding of these adjacent properties and intersections is amplified and intensified because this intersection is the low section taking all the surface and storm drain waters from the east Auburn Creek; the north Fairmount Avenue drainage; and the south Fairmount Avenue drainage. The Maple Street storm water drain, to the north has failed and needed reconstruction.

Further, the north side of Home Avenue for nearly one half to two thirds of a mile lacks any pedestrian sidewalks, curbs, or gutters. Storm water flows down the north hill sides and rapidly collects and drains down 46th Street, Laurie Lane, Roseview Place, Maple Street / Laurel Street, the 46th Street Couplet, Menlo Avenue, and 47th Street.

On the south side of Home Avenue, the apartment complexes, sitting above the box culvert and along the parallel to Home Avenue – 46th Street contribute to surface flow collection onto Home Avenue, at this low spot flood location. The intersection is designed to flood and floods frequently. SEE: Maple Street Drain Reconstruction, City of San Diego, CIP project. Report and CEQA Review and Exemption.

Recently, the applicant for a change of use at 2281 Fairmount Avenue, San Diego, CA 92105 presented a [Preliminary Hydrology Study for 2281 Fairmount Avenue](#), prepared by K&S Engineering, Inc., July 26, 2018 and a [Site Specific Letter of Map Amendment](#), prepared by Federal Emergency Management Agency, dated October 3, 2018. These documents appear to present information to demonstrate that the subject project property may be above the general Flood Plain surrounding Auburn Creek. These materials and documents may not have addressed the storm water that flows off of the subject property to

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the Home Avenue flood area. Further, the materials appear not to have been prepared to address the flood conditions caused by the combination of the open trapezoidal concrete channel which is on one half of the subject project property. The flood condition contribution from 2281 Fairmount Avenue should be studied further and the adjacent properties be required to participate in the remediation of the flood conditions that flow off of these properties.

The volumes of water that flows off of the hillside property at 2281 Fairmount and from the open trapezoidal concrete channel of Auburn Creek needs to be calculated ["Q"]; so that its contribution to the Home Avenue flood conditions determined and mitigated.

The HYDRAULIC DESIGN MANUAL, County of San Diego Department of Public Works, Flood Control Section September 2014, sets standards for channel designs at section 5. The apparent design flaw of this short channel section is that high velocity flood waters exit a closed contain channel into an open trapezoidal channel and then are confronted by an undersized undercrossing, at Fairmount Avenue

Solutions possible for addressing the flooding from and at the **Fairmount Street Undercrossing** could include several remedial actions to reduce out of channel flow onto Fairmount Avenue and Home Avenue. Remedial actions should at minimum consider the following:

1. Reduction and infiltration of storm water that flows onto Fairmount Avenue and Home Avenue from the higher elevation streets and properties. Storm water should be made to infiltrate on the adjacent properties and slowed before contributing to the frequent flood conditions at the Home Avenue intersection low point.
2. The open trapezoidal concrete channel remnant, at 2281 Fairmount Avenue should be evaluated and re designed. The redesign consideration should include replacement of the open channel with a box culvert.
3. The undercrossing, at Fairmount Avenue should be evaluated and redesigned; so as to continue the flow from the east side of Fairmount Avenue to the west side of Fairmont Avenue in an appropriately sized box culvert.

D. Federal Boulevard Undercrossing

The last end section of the Auburn Creek joins the North Chollas Creek tributary, of the Chollas Creek, at the intersection of Federal Boulevard and Home Avenue. This section of Auburn Creek has some of the same design and water velocity challenges presented and discussed concerning the **Fairmount Street Undercrossing**, above.

The **Federal Boulevard Undercrossing** section, of Auburn Creek, starts to the east with an exit from a fully contained box culvert of about a one quarter of a mile in length. This box culvert flow is placed into a confided manufactured

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channel with a gravel bottom. The design constrained channel had been further constrained by the SDPD to provide it with additional building space for its Police Campus and then the Central SDPD Garage. This short open channel is then confronted with a small cross section **Federal Boulevard Undercrossing** designed and installed before the box culvert or the interference with the channel by SDPD. The flow is further challenged by the convergence of Auburn Creek with the larger size and volume North Chollas Creek tributary 200 yards to the south. The combined flow is then forced under the Home Avenue undercrossing into the large trapezoidal concrete channel that flows parallel to the SR-94 Freeway.

The Auburn Creek flow, from the east, seriously damaged the pedestrian bridge at Federal Boulevard. This damage has not been repaired and pedestrian access is no longer available. This condition has existed for more than three (3) years and interferes with a safe path of ADA travel. [There is no curb, gutter, or ADA sidewalk on the south side of Federal Boulevard].

The City installed large rip rap on the east side of Auburn Creek, at this location, to protect its SDPD Central Police Garage and fueling station from flooding. The Regional Water Quality Board has cited the design of the SDPD Central Police Garage for the ineffectual design and operation of the storm water retention facilities at this location. SEE: **Order No. R9-2017-0056, Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order, CALIFORNIA REGIONAL WATER QUALITY BOARD SAN DIEGO REGION, Place ID: CW-25522 & Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order for \$949,634 in the Matter of the City of San Diego, for Violations of Municipal Storm Water Permits 2001-001 and R9-2007-0001.** Specifically see #6 at page 44 of 55 of Exhibit 3 City of San Diego – Public Deficient Projects Status.

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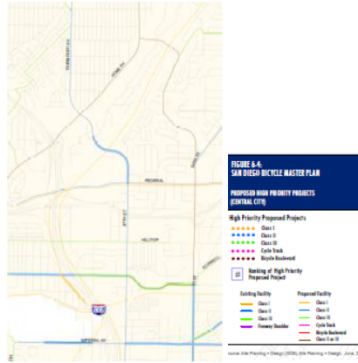
Solutions possible for addressing the flooding from and at the **Federal Boulevard Undercrossing** could include several remedial actions to reduce out of channel flow onto Fairmount Avenue and Home Avenue. Remedial actions should at minimum consider the following:

1. Reduction and infiltration of storm water that flows onto Home Avenue from the higher elevation streets and properties. Storm water should be made to infiltrate on the adjacent properties and slowed before contributing to the frequent flood conditions at the Home Avenue intersection low point.
2. The storm water that washed off of the very large paved AT&T service yard, at Ash Street and Home is of particular concern. The volumes that wash down into a special storm drain should be contained and slowed in a detention pond with appropriate landscaping as an infiltration swale. This service yard wash is believed to contain high levels of zinc and copper metals based on the materials used by the many service trucks and facilities, at this location.
3. The ADA clear path of travel, on the east side, of Federal Boulevard must be repaired and restored.
4. The undercrossing, at **Federal Boulevard Undercrossing** should be evaluated and redesigned; so as to continue the spread out the flow from the east side of Federal Boulevard. A detention area and expansion swale could be added to the area to the south.
5. The south side of **Federal Boulevard** should be improved, as required in the permit for the construction for the Central Police Garage and Federal Boulevard Police Campus. The **GroundWorks** Corporation has developed a plan for extensive ecological improvements to the south side of Federal Boulevard. This plan should be funded and implemented, with the addition of the recommendation presented in number 4, above.

V. TRANSPORTATION & NON MORTORIZED FEATURES:

The transportation system and facilities along Fairmount Avenue, Home Avenue, and Euclid Avenue are incomplete as pedestrian facilities are lacking in many sections. Sidewalks, curbs, and gutters need to be completed on the north side of Home Avenue, between Fairmount and Euclid Avenues; the south side of Federal Boulevard, between Home Avenue and the I-805 Freeway overcrossing; and sections of Euclid Avenue.

The bike way needs to be completed south of Home Avenue on Fairmount Avenue. The bike path needs to continue south on Fairmount past Home Avenue.

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SEE: [City of San Diego Bicycle Master Plan San Diego](#), California FINAL – December 2013,
PREPARED BY: Alta Planning + Design,
https://www.sandiego.gov/sites/default/files/legacy/planning/programs/transportation/mobility/pdf/bicycle_master_plan_final_dec_2013.pdf

Completion of the sidewalk facilities and bike ways will contribute to the accomplishment of Zero Traffic Related Fatalities and Severe Injuries by 2025, City of San Diego., <https://www.sandiego.gov/vision-zero>

The Mayor's initial proposed budget recommends some of these capital improvement projects. SEE: Fiscal Year 2020 Proposed Budget, [Volume III: Capital Improvements Program](https://www.sandiego.gov/sites/default/files/pb_v3tsw.pdf), City of San Diego https://www.sandiego.gov/sites/default/files/pb_v3tsw.pdf

Transportation & Storm Water City Heights Pedestrian Imp Phase 2 / S18009 pp 446-447

Transportation & Storm Water Euclid Avenue & Home Improvements / S00886 p 453

Transportation & Storm Water Minor Bike Facilities / ALA00001p471

VI. SPECIAL HAZARDS AND CONDITIONS – RAINBOW PIPELINE

Below is a Letter, dated August 8, 2016, from John Stump to Mr. Tim Sullivan, Executive Director PUBLIC UTILITIES COMMISSION - STATE OF CALIFORNIA, RE: SDG&E PIPELINE 1600 Safety Order, Future Inspection and Replacement Programs, and School Hazard Notices. This letter identifies that there is a very large and potentially dangerous high pressure gas pipeline running along Fairmount Avenue.

This pipeline must be carefully considered during the planning and consideration for approval of any projects along Fairmount Avenue at home Avenue.

JOHN STUMP
Attorney at Law
2415 SHAMROCK STREET

AUBURN CREEK & CANYON, v. 1.5.19

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CITY HEIGHTS, CALIFORNIA 92105
619 281 4663 mrjohnstump@cox.net

August 8, 2016

Mr. Tim Sullivan, Executive Director
PUBLIC UTILITIES COMMISSION - STATE OF CALIFORNIA
505 Van Ness Avenue
San Francisco, California 94102-3298

RE: SDG&E PIPELINE 1600 Safety Order, Future Inspection and Replacement Programs, and School Hazard Notices

Dear Mr. Sullivan,

Many thanks to the Public Utilities Commission, my Sierra Club, and the Union Tribune for their vigilance on this old and potentially very dangerous pipeline. This Pipeline is approaching 70 years of age and if it was human it would have retired, be collecting Social Security, and on Medicare. The San Bruno explosion made clear the scale of injury and property that could result from a pipeline failure. The Rainbow Pipeline 1600 is older, bigger, and under higher pressure than the disastrous San Bruno pipeline.

Rainbow Pipeline 1600 passes through heavily populated urban areas of San Diego, including my home community of City Heights. Not only does this old gas line pass under homes and apartment buildings, it passes through and directly adjacent to Central Elementary School, several child care facilities, the very and active City Heights Library, Farmers Market and park and police complexes, the Mid City Heights Community College campus, Clark Middle School, Hamilton Elementary School, and Webster Elementary School, in City Heights. The San Diego Unified School District maintains these facilities with some 2,500 or more students. Parents, teachers, and residents are unaware of the potential danger hidden just below the surface.

On several occasions, I have written San Diego Gas and Electric, the City of San Diego, the San Diego Unified School District, and the San Diego Community College to urge inspection and possible removal of this aged line. I believe that any future pipeline projects should **NOT** be routed through residential streets but rather should be rerouted along the Freeway corridors that follow along the about the same routes. This alternate should be considered as part of the project reviews, including but not limited to, the CEQA and NEPA processes.

If the pipeline is abandoned, then it should be considered for reuse and reconditioning as a conduit for recycled purple pipe water, which is produced along the pipeline north of the Highway 8 but unavailable in our area, south of Highway Eight. Additionally, the repurposed pipeline could be used as a secure conduit for undergrounding communications and fiber optics, whose hub is now in City Heights, along the current pipeline's route.

I request that the above information be considered in any future project or remediation and inspection programs and projects. I request notice of the ability to comment, in the future, and that such notices, be prominently placed at each of the schools and public facilities listed above and along the pipeline route. Such notices should be prepared to communicate the projects proposal and the hazards, in the languages common to our community.

I also want the Commission to carefully consider the extensive natural habits in our community which surround the Cholas Creek, an impaired waterway with listed flora and fauna. Our city Heights community is a well-documented site of pre settlement native indigenes peoples. Great care should be taken when planning any project through or along the Cholas watershed, creeks, and canyons.

Again, thank you for your oversight.

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John Stump

Copy: City of San Diego, San Diego Unified School District, San Diego Community College, SDG&E, and City Heights Planning Committee, City Heights Community Development Corporation, SD Union Tribune

VII. CALIFORNIA ENVIRONMENTAL QUALITY ACT SUMMARY

STANDARD OF REVIEW

"The ...applicable standards of review for... reviewing ...actions under CEQA, ... must determine whether there was "a prejudicial abuse of discretion." (Pub. Resources Code, § 21168.5.) "Abuse of discretion is established if the agency has not proceeded in a manner required by law, or if the determination or decision is not supported by substantial evidence.'" (*Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 486.)

"[A] reviewing court must adjust its scrutiny to the nature of the alleged defect." (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435 (*Vineyard*).) Challenges to an agency's failure to proceed in the manner required by CEQA are subject to a significantly different standard of review than challenges that an agency's decision is not supported by substantial evidence. (*Ibid.*) Where the challenge is that the agency did not proceed in the manner required by law, a court must "determine de novo whether the agency has employed the correct procedures, 'scrupulously enforc[ing] all legislatively mandated CEQA requirements.'" (*Ibid.*)

Furthermore, when a prior environmental impact report has been prepared and certified for a program or plan, the question for a court reviewing an agency's decision not to use a tiered EIR for a later project "is one of law, i.e., 'the sufficiency of the evidence to support a fair argument.'" (*Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1318.) "[I]f there is substantial evidence in the record that the later project may arguably have a significant adverse effect on the environment which was not examined in the prior program EIR, doubts must be resolved in favor of environmental review and the agency must prepare a new tiered EIR, notwithstanding the existence of contrary evidence." (*Id.* at p. 1319, fn. omitted.) The court "must set aside the decision if the administrative record contains substantial evidence that a proposed project might have a significant environmental impact; in such a case, the agency has not proceeded as required by law." (*Id.* at 1317.)

II. OVERVIEW OF CEQA

AUBURN CREEK & CANYON, v. 1.5.19

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"The fundamental goals of environmental review under CEQA are information, participation, mitigation, and accountability." (*Lincoln Place Tenants Assn. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 443-444 (*Lincoln Place II*).)

As the California Supreme Court has explained: "If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees. [Citations.] The EIR process protects not only the environment but also informed self-government." (*Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 392 (*Laurel Heights*).)

CEQA requires a public agency to prepare an environmental impact report (EIR) before approving a project that may have significant environmental effects. (Pub. Resources Code, § 21100.) The EIR is "the heart of CEQA" . . . an 'environmental "alarm bell" whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.'" (*Laurel Heights, supra*, 47 Cal.3d at p. 392.)

CEQA authorizes the preparation of various kinds of environmental impact reports depending upon the situation, such as the subsequent EIR, a supplemental EIR, and a tiered EIR. (Pub. Resources Code, §§ 21166, 21068.5, 21093, 21094.) Whereas the subsequent EIR and supplemental EIR are used to analyze modifications to a particular project, a tiered EIR is used to analyze the impacts of a later project that is consistent with an EIR prepared for a general plan, policy, or program. (CEQA Guidelines, § 15385; compare Pub. Resources Code, § 21166 & CEQA Guidelines §§ 15162, 15163 & 15164 [referencing "the project"] with Pub. Resources Code, § 21093 [stating that later projects may use tiering].)

CEQA requires that "environmental impact reports shall be tiered whenever feasible." (Pub. Resources Code, § 21093, subd. (b).) Tiering means "the coverage of general matters in broader EIRs (such as on general plans or policy statements) with subsequent narrower EIRs . . . incorporating by reference the general discussions and concentrating solely on the issues specific to the EIR subsequently prepared." (CEQA Guidelines, § 15385; Pub. Resources Code, § 21068.5.) In the context of program and plan-level EIR's, the use of tiered EIR's is mandatory for a later project that meets the requirements of Public Resources Code section 21094, subdivision (b). (Pub. Resources Code, § 21094, subd. (a).)

Letters of Comments and Responses

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Another requirement of CEQA is that public agencies "should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." (Pub. Resources Code, § 21002.) "A 'mitigation measure' is a suggestion or change that would reduce or minimize significant adverse impacts on the environment caused by the project as proposed." (*Lincoln Place II*, *supra*, 155 Cal.App.4th at p. 445.) If the agency finds that mitigation measures have been incorporated into the project to mitigate or avoid a project's significant effects, a "public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation." (Pub. Resources Code, § 21081.6, subd. (a)(1).)

If a mitigation measure later becomes "impracticable or unworkable," the "governing body must state a legitimate reason for deleting an earlier adopted mitigation measure, and must support that statement of reason with substantial evidence." (*Lincoln Place Tenants Association v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1509 (*Lincoln Place I*)).

SIERRA CLUB v. COUNTY OF SAN DIEGO, COURT OF APPEAL, FOURTH APPELLATE DISTRICT DIVISION ONE, STATE OF CALIFORNIA, D0642, 43, (Super. Ct. No 37-2012-00101054-CU-TT -CTL), dFiled 10/29/14 Certified for publication 11/24/14

VIII. FOOTNOTES AND REFERENCES:

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3. Letter, May 11, 2010, CHOLLAS RESTORATION, ENHANCEMENT AND CONSERVANCY to San Diego Planning Commission, RE: AUBURN CREEK designation in proposed Master Storm Water System Maintenance Permit (Item # 6);
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4. Map of the Business and Residents Sections of San Diego, Cal.
5. **INTERIM REPORT NO. 14, THE ONTARIO AVENUE CONNECTION AND FOX CANYON PARK**, REPORT OF THE SAN DIEGO CITY ATTORNEY MICHAEL J. AGUIRRE, 27 February 2007, 56 pages http://sdcityattorney.com/Interim_Reports/IR-14_Fox_Canyon_Park_20070227.pdf

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6. **HYDRAULIC DESIGN MANUAL**, County of San Diego Department of Public Works, Flood Control Section September 2014
https://www.sandiegocounty.gov/content/dam/sdc/dpw/FLOOD_CONTROL/floodcontroldocuments/hydraulic_design_manual_2014.pdf
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<http://www.fao.org/3/t0099e/t0099e04.htm>
8. **COUNTY OF SAN DIEGO GUIDELINES FOR DETERMINING SIGNIFICANCE AND REPORT FORMAT AND CONTENT REQUIREMENTS BIOLOGICAL RESOURCES**, Fourth Revision September 15, 2010.
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11. DISPERSAL CAPABILITY OF THE CALIFORNIA GNATCATCHER: A LANDSCAPE ANALYSIS OF DISTRIBUTION DATA, ERIC A. BAILEY and PATRICK J. MOCK, Ogden Environmental and Energy Service Company, 5510 Morehouse Drive, San Diego, California 92121 (current address of Mock, as corresponding author, Dames & Moore, Inc., 9665 Chesapeake Drive, Suite 201, San Diego, California 92123)
12. **CITY OF SAN DIEGO VERNAL POOL HABITAT CONSERVATION PLAN**, October 2017, https://9670f26306f0aa722eb1-bf8a0720b767c6949515361a19a9737f.ssl.cf2.rackcdn.com/uploads/website_attachment/attachment/161/vph-cp.pdf
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15. **Zero Traffic Related Fatalities and Severe Injuries by 2025**, City of San Diego,
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Transportation & Storm Water City Heights Pedestrian Imp Phase 2 / S18009 at pages 446-447; Transportation & Storm Water Euclid Avenue & Home Improvements / S00886 at page 453; and Transportation & Storm Water Minor Bike Facilities / AIA00001 at page 471. Further

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17. CEQA and design comments concerning the CHARLES LEWIS III Park, on Home Avenue – specifically traffic crossing, signals, and safety signage. Additionally this CEQA report and related studies contain information concerning Auburn Creek habitats and listed species.
18. Project Name: Marijuana Outlet 2281 Fairmount Avenue □ Project No. 607352 / SCH No. N/A, DRAFT NEGATIVE DECLARATION, April 18, 2019 Revised,
https://docs.sandiego.gov/citybulletin_publicnotices/CEQA/PN1300%20%23607352%20Revised%20Draft%20ND%20PN%20Date%204-18-19.pdf
19. Preliminary Hydrology Study for 2281 Fairmount Avenue, prepared by K&S Engineering, Inc., July 26, 2018
20. Letter of Map Amendment, prepared by Federal Emergency Management Agency, dated October 3, 2018, for 2281 Fairmount Avenue, San Diego, California
21. HYDRAULIC DESIGN MANUAL, County of San Diego Department of Public Works, Flood Control Section September 2014,
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22. Order No. R9-2017-0056, Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order, CALIFORNIA REGIONAL WATER QUALITY BOARD SAN DIEGO REGION, Place ID: CW-25522,
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23. Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order for \$949,634 in the Matter of the City of San Diego, for Violations of Municipal Storm Water Permits 2001-001 and R9-2007-0001,
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25. Zero Traffic Related Fatalities and Severe Injuries by 2025, City of San Diego,,
<https://www.sandiego.gov/vision-zero>
26. Fiscal Year 2020 Proposed Budget, Volume III: Capital Improvements Program, City of San Diego https://www.sandiego.gov/sites/default/files/pb_v3tsw.pdf

Letters of Comments and Responses

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Transportation & Storm Water City Heights Pedestrian Imp Phase 2 / S18009 pp 446-447

Transportation & Storm Water Euclid Avenue & Home Improvements / S00886 p 453

Transportation & Storm Water Minor Bike Facilities / ALA00001p471

27. SIERRA CLUB v. COUNTY OF SAN DIEGO, COURT OF APPEAL, FOURTH APPELLATE DISTRICT DIVISION ONE, STATE OF CALIFORNIA, D0642, 43, (Super. Ct. No 37-2012-00101054-CU-TT -CTL), dFiled 10/29/14 Certified for publication 11/24/14

28. Letter, dated August 8, 2016, from John Stump to Mr. Tim Sullivan, Executive Director PUBLIC UTILITIES COMMISSION - STATE OF CALIFORNIA, RE: SDG&E PIPELINE 1600 Safety Order

Opinions stated above are based on personal observations, information and beliefs made in good faith and nearly fifty years of residency in the City Heights community

Letters of Comments and Responses

From: [John Stump](#)
To: [DSC142@san Diego.gov](#); [Benally, Rhonda](#); [Geiler, Gary](#); [Tirandazi, Firouzeh](#)
Cc: [CLK City Clerk](#); [SDAT City Attorney](#); [Bastin@san Diego.gov](#); [Harrison, Tiffany](#)
Subject: Marijuana Outlet at 2281 Fairmount Avenue -Current B&E Automobile Repair commercial use. Project No. 607352 / SCH No. N/A
Date: Monday, April 15, 2019 6:25:50 PM

Dear Ms Rhonda Benally, Mr. Gary Geiler, and DPM Firouzeh Tirandazi,

I have received your notice concerning of the above listed project which would convert a long term automotive and truck repair use to a retail marijuana outlet. The conversion of limited light industrial use to a large volume retail operation raises serious concerns, as follows:

1. The current building has long been an automobile repair operation. It should be checked and examined for toxics from the current use and past uses. The change to retail and higher employee concentrations might expose the public and employees to higher levels of accumulated toxics as the change of use from an open air flow through multiple garage doors business to a closed doors high security operation, with limited air flow. The current building use has open air flow, East to West through truck size garage doors on both sides of the current building;
2. The current building has a small number of employees with inadequate onsite parking for the employees and customers, as evidenced by daily offsite vehicle transfers to on street and offsite parking;
3. The building has substantial and numerous electronic cell or transmission equipment which should be evaluated for appropriateness and safety for increased number of employees and customers over extended hours of operations and hours. The current business operates only Weekdays and on a limited daily hour of operation schedule. The new Conditional Use Permit should restrict the hours of operation to no more than the current limited hours of operation;
4. Is the new use going to have a more extended schedule of hours of operation and days of operation? How will the new CUP limit the hours and nature of operations to no more than the current hours of operation?
5. The subject Notice identifies correctly that the proposed project is adjacent to a high fire hazard hillside backing up to residential homes; but it does not state how this known hazard is to be mitigated. The Notice fails to identify that this hillside is well known as habitat for California Gnatcatchers and other listed species of fauna and flora. There is an established Environmental reserve to preserve this habitat about a mile West, of the project behind the SDPD Police Garage.

- I-1. This comment letter was received from Mr. Stump on April 15, 2019, Letter A. This letter was amended by Mr. Stump's April 15, 2019 letter. Refer to response A-1 through A-21.

Letters of Comments and Responses

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cont.

- a. The Flora & Fauna habitat impacts must be evaluated and mitigated
 - b. The Fire hazards must be mitigated so that the adjacent hillside is protected by a clear and fenced off fire buffer installed
6. The Notice correctly identifies that the subject property is within an established flood zone. It does not make clear that the subject property's Northern boundary is the Auburn Creek, a listed impaired tributary of the North Chollas Creek draining directly into San Diego Bay. The impacts to the Auburn Creek must be evaluated and at minimum include the following:
 - a. Mitigation measures to prevent storm water flow from impervious surfaces into Auburn Creek;
 - b. Removal of nonnative and invasive plant species currently present like Castor Bean, Arundo, Eucalyptus and related weeds;
 - c. Fencing and drainage corrections to prevent wash into the Auburn Creek; and
 - d. Restoration of sensitive habitat damaged by current uses and proposed uses;
7. The area has a long established unsheltered population that inhabit the hillside adjacent to the property and gain access from the lack of continuous security fencing surrounding the property, including the Auburn Creek and Hillside and rear of property. These areas need to be fenced off to prevent sales, operations, and after hours entry from the non-street side Fairmount entrance. There currently seems to be repair operations on two sides of the existing building , through east and west garage doors;
8. Trash and Recycling facilities seem to not be present on the property. Screened and secure waste disposal facilities, of appropriate size and volumes, need to be required in any CUP permit;
9. The property currently has insufficient parking for the current limited truck and vehicle repair operations. The project should be carefully evaluated for the number of parking spaces for both employees and customers and deliveries. The parking should fully conform with the number of ADA blue van accessible spaces for the employees and customers and the number of ADA spaces listed in the CUP;
10. The Noticing of this project should include Noticing to the adjacent property owners, the Ridgeview Neighborhood Association and City Heights Area Planning Committee;
11. The project should be Noticed to the State Fish and Game and Regional Water Quality agency because of the impaired nature of the

Letters of Comments and Responses

I-1
cont.

adjacent Auburn and Chollas Creek and habitats;

12. The Corp of Engineers and FEMA should be noticed because of the well-established and continuous flooding of this area;
13. Fairmount Avenue (47th Street) is a high speed commercial route to Home Avenue and the I-805 freeway. This property has substandard sight lines for egress and ingress. These dangerous conditions require additional pedestrian, bicycle, and vehicle safety considerations. In addition to standard **sidewalks**, curbs, and gutters, with improved sight lines, there should be further study of striping and other traffic control measures to encourage safe pedestrian and bicycle access and limit out of direction crossing into and out of this property. The adjacent curbs should be painted and signed **No Parking** to improve sight lines for safety;
14. Sidewalks and bicycle access is particularly important as there is an adjacent bus stop;
15. There is a documented earthquake fault that runs over the ridge adjacent to this property, the project should be evaluated based on the known fault and building foundations and construction;
16. The Department of Toxic Substance Control should receive notice of this project and asked to evaluate that the long term past uses may have created a yet undocumented residue of toxic substances;
17. The timing of proposed demolition and construction should be timed so as not to interfere with listed species breeding and fledging;
18. Project lighting must be appropriately screened and shaded; so as not to cast light on or interfere with the reproductive amphibian species that use the adjacent Auburn Creek; and
19. Street visible and billboard advertising should be restricted at this site, in its CUP. The proposed project should not be permitted to advertise on the adjacent Fairmount Avenue Billboard.

I request an electronic copy of the applicants package and any and all reports correspondence prepared for this project by the City or its consultants. I further request notice of all findings and hearings for this project.

This project requires significant mitigations to correct the past abuses at the project site; changed environmental, storm water, and pedestrian, bicycle and traffic conditions. This project may be the wrong kind of new use for this location without significant additional mitigations and a significantly more restrictive Conditional Use Permit

Letters of Comments and Responses

All the best,

John Stump

Under the Big Tree At 3 Leaf
2415 Shamrock Street
City Heights, California 92105-4515

Office: 619-281-4663 ☎ This number does not take Ex Parte Notices
Cell: (619) No Published Number

NOT-FOR-HIRE NO SERVICES WITHOUT WRITTEN CONTRACT

Search Results

Map Results

[DIRECTIONS](#)

2281 Fairmount Ave

San Diego, CA 92105

At this address

[B & B Auto Repair](#)

4.6

22 reviews

Web results

[B and B Auto Repair - 26 Reviews - Auto Repair - 2281 Fairmount Ave ...](#)

<https://www.yelp.com/biz/b-and-b-auto-repair-san-diego>

Rating: 4.5 - 26 reviews

26 reviews of B and B Auto Repair "A friend recommended this company - she has used them for years. I cannot thank her enough for the recommendation!"

[George's Garage - Auto Repair - 2281](#)

[Fairmount Ave, Chollas Creek ...](#)

<https://www.yelp.com/biz/georges-garage-san-diego-2>

Letters of Comments and Responses

Rating: 5 - 9 reviews

This guy is very honest -- a rarity these days in the automotive repair industry. ... Would have been so easy for him to say, yes you need a new transmission...we wouldn't have batted an eye. ... In looking for another opinion I was referred to see Mark at George's Garage.

[2281 Fairmount Ave - San Diego CA - MapQuest](#)

<https://www.mapquest.com/us/ca/san.../2281-fairmount-ave-32.728374.-117.098974>

View detailed information and reviews for 2281 Fairmount Ave in San Diego, California and get driving directions with road conditions and live traffic updates ...

[George's Garage 2281 Fairmount Ave San Diego, CA Auto Leasing ...](#)

<https://www.mapquest.com/us/california/georges-garage-11259678>

Rating: 10/10 - 9 reviews

Get directions, reviews and information for George's Garage in San Diego, CA.



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Letters of Comments and Responses



P. O Box 18355
Irvine CA 92623
craig@tepsocal.com

Phone: 949 552 4357
Cell: 909263 0383
www.tepsocal.com

Date: May 28, 2019

Comments on Project 2281 Fairmount Av. CUP, Access Analysis Memorandum
by Urban Systems Associates, Inc. (USAI)

Project Description

J-1

Urban Systems Associates, Inc. (USAI) has prepared a traffic impact study dated December 12, 2018 for a proposed Marijuana Outlet. The project address is 2281 Fairmount Avenue, San Diego, CA. The project is located on the east side of Fairmount Avenue, just south of the intersection of Fairmount Avenue with Home Avenue in the Mid-City Communities Plan area. The project proposes to operate a 2,800 square foot marijuana outlet within an existing 3,976 square-foot building. Only the ground level portion of the building will be used by the marijuana outlet.

Previous approvals and entitlements on the property have allowed the existing operation of an auto repair shop.

The project site is in close proximity (within 1,320 feet of walking distance) to six (6) bus stops.

Site Plan

The site plan indicates one unsignalized driveway access on Fairmount Avenue. The project plans to provide 16 total parking spaces (including 1 Carpool space, 2 motorcycle spaces, 1 handicapped accessible space, 1 zero emissions space with an electric vehicle charging station) and both short-term and long-term bicycle parking.

Traffic Impact Study

The USAI report has been prepared generally in accordance with the City of San Diego guidelines, adopted policies, procedures, and standards as presented in the City of San Diego Traffic Impact Study Manual (July 1998). The following comments are provided concerning deficiencies in the USAI report, most notably with respect to deficiencies in the report relative to the city traffic study guidelines.

Incorrect Project Trip Generation

J-2

It should be noted that the existing plus project analysis of the project driveway is based on an ADT of 620 trips. This figure represents the increase in traffic due to the project vs. the exiting auto repair shop. The total project trip generation should be corrected to 700 ADT which is the total daily trip generation due to the proposed project.

Underestimation of Existing Traffic Counts

J-3

Two elementary schools are located within approximately ½ mile of the project site. Hamilton Elementary School is located just about ½ mile north of the project site on Fairmount Avenue at

Transportation Engineering and Planning, Inc.

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- J-1.** Comment noted. This letter written by Craig S. Neustaedter, dated May 28, 2019, is an attachment to the letter written by Felix Tinkov, dated May 31, 2019.
- J-2.** There is an existing business currently operating at the project site that generates trips. Traffic from this existing use is included in the traffic counts obtained for the Access Analysis. As the project will replace the existing site use and the existing traffic is subtracted to account for the existing business, as standard practice.
- J-3.** The counts were obtained when the baseline condition was established through the scoping process. City Home Avenue counts (Fairmount to Euclid Avenue) conducted during a period when school was in session on February 5, 2019 showed a volume of 18,381 ADT. The December 2018 count used in the Access Analysis was 19,612 ADT. Current traffic counts for Fairmount Avenue during school are not available. It should also be noted that the PM school peak traffic typically occurs earlier than the PM roadway peak. The PM is the critical peak due to higher project traffic generation with 112 PM trips vs. 63 AM trips. It is therefore unlikely that existing counts during school vs. non-school conditions would result in new impacts.

Letters of Comments and Responses

J-3
cont.

Olive Street. Webster Elementary School is located to the south of the project site on Fairmount Avenue. In addition, Clark (Monroe) Middle School is located 2 blocks north of Hamilton Elementary School.

Elementary and secondary schools have a significant impact on traffic operations during student drop off and pick up. Due to their proximity, it is likely that school related traffic would significantly affect the Fairmount Avenue / Home Avenue and 47th Street/ Federal Boulevard intersections level of service (LOS), at least during the am peak periods when school start times are roughly concurrent with peak hours of traffic flow.

As the traffic counts used to determine existing conditions were recorded on July 19, 2018, the effects of schools' traffic, including bicycle and pedestrian traffic, are not reflected in the count data. It is not possible to conclusively state what the impact on LOS might be without actual count data that include the schools' traffic. The schools' traffic impacts must be accounted for with actual count data taken on days when the schools are in full session.

The USAI report shows that the Fairmount Avenue / Home Avenue intersection operates at LOS D, trending toward the LOS E threshold. The inclusion of the local schools' traffic in the USAI report may generate a significant traffic impact requiring mitigation.

J-4

Missing Scenario

Consistent with the city traffic study guidelines, the USIA report has analyzed the following scenarios:

Existing Conditions
Existing Conditions with Project
Opening Day (Year 2020)
Opening Day (Year 2020) with Project

However, the city guidelines also mandate an additional scenario; Build out of Community Plan conditions which has not been analyzed.

J-5

On-site Parking Deficiency

As indicated on page 15 of the traffic report, the project is required to provide 14 parking stalls. This requirement is exceeded with the provision of 16 stalls. The 5th Edition of the ITE Parking Generation Manual has recently been published. It shows the peak hour parking demand for Marijuana Dispensaries of at least 7.19 stalls per 1000 square feet, indicating that during periods of peak parking demand at least 20 stalls should be provided.

J-6

Missing Service/Delivery Vehicles Review

Page 23 of the city traffic study guidelines states that it is necessary to identify the largest vehicles anticipated to travel on site. Access points should be analyzed to anticipate that turning radii are sufficient. This review is not provided in the USAI study.

Missing Driveway Analysis

J-7

Page 22 of the city traffic study guidelines states that access driveways should intercept traffic approaching the site as efficiently as possible. The guidelines state that a capacity analysis, gap check and lane adequacy check should be conducted of each project driveway. Traffic safety aspects of all proposed site access facilities should be reviewed to ensure adequate sight distance and other applicable factors. The USAI report neglects to address these issues.

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2

J-4.

As the project is a small redevelopment project of an existing auto repair business which has operated at the site for many years, and the project was shown to have no near-term significant impacts, a long-term community plan build-out scenario would be very unlikely to indicate significant project impacts.

J-5.

The project meets the parking requirement of 5 spaces per 1,000 square feet (SF) per the San Diego Municipal Code.

J-6.

According to the applicant, the typical vehicle accessing the site will be a car or step van. No semi-trailer trucks are expected.

J-7.

The level of service analysis performed using the Synchro traffic software at the project driveway simulates traffic patterns including queuing and gaps in traffic to allow turning movements into and out of the site. The level of service estimated for the driveway during both peak hours indicate no issues with queuing. Traffic safety aspects of the project were addressed in the site plan review and no concerns were identified.

Letters of Comments and Responses

J-7
cont.

For the USAI report to be in compliance with the guidelines, it needs to address project site access issues. Of significant concern is limited southbound left turn storage capacity into the project site on Fairmount. For both am and pm peak hours, the traffic study needs to address:

- 1) If there are adequate gaps in northbound traffic on Fairmount.
- 2) Queue lengths for left turning traffic entering the project site.
- 3) Verify if there is adequate storage for left turning vehicles.

The existing perimeter fence fronting the project site on Fairmount may constitute a sight distance obstruction for vehicles exiting the project site. The USAI report should address this, and offer mitigation if necessary.

Missing Ramp Metering Analysis

J-8

The City of San Diego Traffic Impact Study Manual states that ramp metering analysis should be performed for each horizon year scenario in which ramp metering is expected (see page 29). The USAI has been required to analyze the intersection of Home Avenue at I 805 northbound on/off ramps. The on ramp is ramp metered, and will be in the future. Per the city guidelines, ramp metering should have been analyzed for all scenarios.

Conclusions

J-9

As stated on page 3 of the USAI report, the purpose of the San Diego Traffic Impact Study Manual is to ensure consistency with all applicable city and state regulations. The report falls short of complying with the guidelines, and consequently should be considered deficient with respect to meeting all applicable city and state regulations.

The missing driveway analysis means we cannot be certain that the project effectively mitigates any potential unsafe conditions with respect to project access. This deficiency needs to be corrected.

Report prepared by:
Craig S. Neustaedter
California Registered Traffic Engineer
License # 1433/ Expiration 12/31/20

J-8. Per the City of San Diego Traffic Impact Study Manual, analysis of metered freeway on-ramps is required when the project is expected to add more than 20 peak hour trips at the ramp meter. The project is expected to add a maximum of 10 peak hour trips (in the PM peak hour); therefore ramp meter analysis was not required.

J-9. Comment noted. Refer to response J-8.

Transportation Engineering and Planning, Inc.

Letters of Comments and Responses

LAW OFFICE OF FELIX TINKOV

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felix@tinkovlaw.com
www.tinkovlaw.com

Felix Tinkov, Esq.
Principal

VIA EMAIL

May 31, 2019

Rhonda Benally
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101
DSDEAS@sandiego.gov

Re: Potentially Significant Traffic and Access Impacts arising from Proposed Marijuana
Dispensary Project at 2281 Fairmount Avenue (Proj. No. 607352)

Dear Ms. Benally:

This letter is in follow up to our May 7, 2019 correspondence as to the draft negative
declaration circulated for the proposed marijuana dispensary at 2281 Fairmount Avenue (Project
No 607352). We have secured Transportation Engineering and Planning, Inc. (TEP) for an
expert review of the project's traffic and access analysis. This expert review is provided as an
attachment.

TEP's principal, Craig S. Neustaedter, PE, AICP, a California registered and licensed
traffic engineer, has found the December 12, 2018 Urban Systems Associates, Inc. (USAI) traffic
impact study for the subject project to be technically and substantively deficient. The USAI
study undercounts average daily trips generated by the project, fails to account for standard
marijuana dispensary parking requirements, avoids counting cumulative traffic impacts from
three neighboring schools, does not address service and delivery vehicles, and does not comply
with City of San Diego traffic study guidelines in analyzing its proposed driveway and the
nearby I-805 freeway on-ramp metering.

These deficiencies require extensive additional review and correction to the project's
traffic analysis. Further, TEP's expert comments provide substantive evidence into the
administrative record that the project individually, and in light of cumulative effect, may present
potentially significant impacts under the California Environmental Quality Act ("CEQA").
Given this, the project's proposed negative declaration is inherently deficient for its purpose.

As described in our May 7, 2019 correspondence, the City may not lawfully prepare a
negative declaration when substantial evidence exists in the administrative record that a project
may have a significant effect on the environment. (CEQA Guidelines §15070.) The courts
review such matters under the lowest threshold possible under CEQA, the "fair argument"
standard. (*Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4 144,

K-1. Comment noted. Refer to responses J-1 through J-9.

K-1

Letters of Comments and Responses

LAW OFFICE OF FELIX TINKOV

Rhonda Benally
May 31, 2019
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K-1
cont.

150-151.) This standard merely requires substantial evidence that a project *may* generate potentially significant impacts on the environment to require the preparation of an environmental impact report ("EIR").

The fair argument standard is easily met given TEP's expert opinion. Similarly, the expert fire safety analysis provided in the PyroCop, Inc. comment letter attached to our May 7, 2019 correspondence offers additional substantive evidence sufficient to meet the low legal threshold triggering the preparation of an EIR.

In light of these facts, and the law, the City must now proceed to require the preparation of a revised traffic impact analysis correcting the deficiencies described by TEP. Upon conclusion of this effort, mitigation measures will be necessary to overcome the impacts determined in the revised report. Upon conclusion of these efforts, an EIR should be drafted for proposed marijuana dispensary at 2281 Fairmount Avenue and circulated to the public for further comment.

Sincerely,



Felix Tinkov, Esq.

cc: RBenally@sandiego.gov

Enc.: (1)

INITIAL STUDY CHECKLIST

1. Project title/Project number: Marijuana Outlet 2281 Fairmount Avenue / 607352
2. Lead agency name and address: City of San Diego, 1222 First Avenue, MS-501, San Diego, California 92101
3. Contact person and phone number: Rhonda Benally / (619) 446-5468
4. Project location: 2281 Fairmount Avenue, San Diego, California 92105
5. Project Applicant/Sponsor's name and address: Mr. Blake Marchand, March & Ash, 2835 Camino Del Rio South, Suite 110, San Diego, CA 92108.
6. General/Community Plan designation: The Community Plan designates the site as General Commercial with Limited Light Industrial Use, and the General Plan land use designation is Industrial Employment.
7. Zoning: IL-3-1 (Industrial-Light) and OR-1-1 (Open Space-Residential) Zones
8. Description of project (Describe the whole action involved, including but not limited to, later phases of the project, and any secondary, support, or off-site features necessary for its implementation.):

The project proposes a Conditional Use Permit (CUP) to allow for a MO to operate within a 2,800 s.f. space of an existing 3,976 s.f. commercial building, on a 0.50-acre site. The building totals 3,976 s.f., including 3,517 s.f. of first floor area and a 459 s.f. mezzanine floor area. The project would remodel 2,800 s.f. of the interior first floor space, reducing the total project footprint by 717 s.f. from the proposed exterior soffit renovations. The 459 s.f. mezzanine floor would remain vacant during the CUP term, and 2,337 s.f. of phantom area would remain for a total gross floor area of 6,313 s.f. Interior improvements proposed by the project include the construction of a security check area, waiting area, reception room, dispensary area, office/camera room, prep room, break room, hallway, and restrooms. The plumbing fixtures and fittings would also be replaced with low-flow fixtures and fittings. Exterior improvements include the removal of the existing exterior wall metal siding, and the construction of a new exterior wall at the same elevation of the current building, 30.5 feet high and 70 feet in length. The project would also re-construct a 24-foot wide driveway to meet City standards, replace damaged curb, gutter and sidewalk on Fairmount Avenue, and construct a new concrete bus stop slab on Fairmount Avenue along the project's frontage. Ingress and egress would be provided from a re-constructed 24-foot wide driveway on Fairmount Avenue.

The existing Floor Area Ratio (FAR) is 0.18 and the proposed FAR for the project would be 0.13.

The project would meet the parking requirements contained in the City of San Diego Municipal Code 131.0530. Surface parking would be accessed from the driveway located

along Fairmount Avenue. The minimum parking spaces required is 14 spaces, and a total of 16 parking spaces would be provided (including 1 carpool space, 2 motorcycle spaces, 1 accessible space, and one zero emissions space with an electric vehicle charging station). Two short-term and one long-term bicycle parking space in the form of a bike locker would be provided. The facility would provide an odor absorbing ventilation and exhaust system and any mechanical equipment on the roof would be fully screened by a metal roof and exterior metal siding. Solar panels would be added to the roof top.

The retail facility would operate between the hours of 7:00 am and 9:00 pm, seven days a week. Security would be provided, including operable cameras, alarms, a metal detector, and a security guard licensed by the State of California. The security guard will be present during all business hours. Primary signs would be posted on the outside of the building.

Construction of the project site does not propose the exportation of any materials. Twenty-five cubic yards of material would be imported. The project would maintain the existing setbacks for the project site and exceeds the required standard for front street setback (20' required; 87' existing), side yard setbacks for IL-3-1 (25' required; 29' existing), side yard setbacks for OR-1-1 (8' required, 45'10" existing) and rear yard setback (15' required; 19'10" existing).

A Brush Management Program would be implemented as part of the project. Brush management Zone One is the area adjacent to the structure and considered the least flammable and consists of pavement and permanently irrigated native and drought tolerant planting. Brush management Zone Two is located between Zone One and any undisturbed, native or naturalized vegetation. The brush management zones were established based on the existing structure. Zone One width is 8'-4" to 42'-4" while Zone Two width is 5'-9" to 19'-8". All landscape and irrigation would conform to the standards of the City-wide Landscape Regulations and the City of San Diego Land Development Manual Landscape Standards, and other landscape related City and regional standards. Landscaping for the project would include theme trees, slope trees, slope shrubs, accent shrubs, vines and groundcover. Theme trees would include Tipu Tree (*Tipuana tipu*) and Chinese Elm Tree (*Ulmus parvifolia*). Slope trees would include Pacific Wax Myrtle (*Myrica californica*) and Catalina Cherry (*Prunus illicifolia*). Slope shrubs would include Dwarf Coyote Brush (*Baccharis pilularis*), Carmel Mountain Lilac (*Ceanothus griseus horizontalis*), Pink Rockrose (*Cistus skanbergii*) and Purple Sage (*Salvia leucophylla*). Accent shrubs would include Pink Breath of Heaven (*Coleonema pulcherum*), Texas Privet (*Ligustrum texanum*), Pink India Hawthorn (*Rhaphiolepis indica 'pink lady'*), Variegated Mirror Plan (*Coprosma r. variegata*), Dwarf Bottlebrush (*Callistemon cit. 'little john'*), Compact Myrtle (*Myrtus communis compacta*) and Purple New Zealand Flax (*Phormium tenax 'atropurpureum'*). Additional plants and shrubs would include Blue Fescue (*Festuca ovina*), Heavenly Bamboo Hybrid (*Nandina domestica 'harbour dwarf'*) and Society Garlic (*Tulbaghia violacea*). Vines would include Bougainvillea Vine (*Bougainvillea spp.*) and Red Trumpet Vine (*Distictis buccinatoria*). Ground cover would include Prostrate Myoporum (*Myoporum parvifolium*).

9. Surrounding land uses and setting:

The 0.50-acre parcel is located at 2281 Fairmount Avenue, in the IL-3-1 and OR-1-1 Zones of the City Heights Neighborhood of the Mid-City Communities Planning area. An existing

commercial metal building is currently occupied by a vehicle repair shop, along with parking spaces, hillside slope to the east and south of the existing building and a drainage channel to the west of the existing building. The Multi-Habitat Planning Area transects the property on the southeastern edge of the Site.

The project site is surrounded by light industrial land uses to the north and west, Fairmount Avenue directly west and southwest, open space with vegetated steep hillside to the east and south, and residential single-family dwelling units located further east of the open space. The eastern corner of the project site is designated as open space and contains vegetation on the eastern to southern corners of the project site. The site and the immediate surrounding uses are Zoned IL-3-1 to the north and west, and Open Space-Residential (OR-1-1) to the east and south. Elevations on the project site range from 198 feet above mean sea level (amsl) to 150 feet amsl, and the surrounding area contains some small canyons to the east and steep vegetated hillsides east and south of the project site.

In addition, the site is located within the City Heights Neighborhood of the Mid-City Communities Plan, City Heights Redevelopment Project, Special Flood Hazard Area (100 Year Floodway and 100 Year Floodplain), Outdoor Lighting Zones, Brush Management and the Very High Fire Hazard Severity Zone. The site is served by existing public services and utilities.

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement):

None required.

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, has consultation begun?

Based on the information submitted it was determined that AB 52 Notification, in accordance with the requirements of Public Resources Code 21080.3.1, was not required as the project would occur within previously disturbed areas.

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code section 5097.96 and the California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code section 21082.3(c) contains provisions specific to confidentiality.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|---|--|--|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Population/Housing |
| <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Tribal Cultural Resources |
| <input type="checkbox"/> Geology/Soils | <input type="checkbox"/> Noise | <input type="checkbox"/> Utilities/Service System |
| | | <input type="checkbox"/> Mandatory Findings Significance |

DETERMINATION: (To be completed by Lead Agency)

On the basis of this initial evaluation:

- ☒ The proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ The proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (a) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (b) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required.
- ☐ Although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or (MITIGATED) NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or (MITIGATED) NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis.)
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
- 4) “Negative Declaration: Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from “Earlier Analyses”, as described in (5) below, may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or (mitigated) negative declaration. *Section 15063(c)(3)(D)*. In this case, a brief discussion should identify the following:
 - a. Earlier Analysis Used. Identify and state where they are available for review.
 - b. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c. Mitigation Measures. For effects that are “Less Than Significant With Mitigation Measures Incorporated”, describe the mitigation measures that were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a. The significance criteria or threshold, if any, used to evaluate each question; and
 - b. The mitigation measure identified, if any, to reduce the impact to less than significant.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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I. AESTHETICS – Would the project:

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Have a substantial adverse effect on a scenic vista? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

There are no designated view corridors or scenic vistas on or near the project site. The project is not located within a designated view corridor and there are no scenic vistas on or near the project site. Therefore, implementation of the project would not result in a substantial adverse effect on a scenic vista. No such impacts, therefore, would occur.

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

There are no state scenic highways or scenic resources, including trees, rocks or outcroppings, on, near or adjacent to the project site. No impact would occur.

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Refer to I(a), above. The project site is developed with a commercial structure and associated surface parking. Surrounding the project are light industrial land uses to the north and west, Fairmount Avenue located directly west and southwest, open space with vegetated steep hillside to the east and south, and residential single-family dwelling units located further east of the open space. The eastern corner of the site is designated as open space and contains vegetation on the eastern and southern corners of the site. The project proposes the renovation of an existing building, within the allowable height and bulk regulations of the underlying zone. As such, the project would not exceed the height and/or bulk regulations and would not contrast with the development in the surrounding neighborhood, and would not conflict with the existing patterns of development in the vicinity by a substantial margin. The proposed exterior improvements would not significantly alter the visual character of the site and would not substantially degrade the visual character or quality of the site or its surroundings. The project is consistent with the community plan and underlying zone designations and would therefore be compatible with the surrounding neighborhood and development. No such impacts, therefore, would occur.

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|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Exterior lighting currently exists on the project site and in the surrounding area. In compliance with M.O. Code Provisions (SDMC Section 141.0504 (b)), the project would provide lighting to illuminate the interior, façade and immediate surroundings, with all lighting oriented to deflect light away from adjacent properties. In addition, the project would comply with the outdoor lighting standards contained in Municipal Code Section 142.0740 that require all outdoor lighting be installed, shielded and adjusted so that the light is directed in a manner that minimizes negative impacts from light pollution, including trespass, glare, and to control light falling onto surrounding properties. Therefore, lighting installed with the project would not create a new source of substantial light or

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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glare that would adversely affect day or nighttime views in the area. No such impacts, therefore, would occur.

II. AGRICULTURAL AND FOREST RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. – Would the project::

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Converts Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project is located on a developed site with no existing or past agricultural uses and is mapped as Urban and Built-Up Land, under the Farmland Mapping and Monitoring Program of the California Resources Agency. Therefore, implementation of the project would not convert any farmland to a non-agricultural use. No impact would occur.

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|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Conflict with existing zoning for agricultural use, or a Williamson Act Contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project site is not designated or zoned agricultural use, and no Williamson Act Contract land occur onsite. Implementation of the project would not conflict with any agricultural use. No impact would occur.

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 1220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Refer to II(a). The project would not result in rezoning for forestland or timberland (as defined by Government Code Section 51104(g)). Forest lands are not present on the site. No impact would occur.

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|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Result in the loss of forest land or conversion of forest land to non-forest use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Refer to II(a). The project would not involve in any changes that would affect or result in the loss of forest land or conversion of forest land to forest land uses. Therefore, implementation of the project would not convert any forest land to a non-forest use. No impact would occur.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

See response to II(a) and II(c), above. No impact would occur.

III. AIR QUALITY – Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied on to make the following determinations – Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The San Diego Air Pollution Control District (SDAPCD) is the agency that regulates air quality in the San Diego Air Basin, in which the project site is located. The SDAPCD prepared the Regional Air Quality Strategy (RAQS) in response to the requirements set forth in the California Clean Air Act (CAA) Assembly Bill (AB) 2595 (SDAPCD 1992) and the federal CAA. As such, the RAQS is the applicable regional air quality plan that sets forth the SDAPCD's strategies for achieving the National Ambient Air Quality Standards (NAAQS) and the California Ambient Air Quality Standards (CAAQS).

The growth projections used by the SDAPCD to develop the RAQS emissions budgets are based on the population, vehicle trends, and land use plans developed in general plans and used by the San Diego Association of Governments (SANDAG) in the development of the Regional Transportation Plan (RTP) and Sustainable Communities Strategy (SCS). As such, the proposed retail facility is consistent with the growth anticipated by SANDAG's growth projections and/or the general plan and the project would not conflict with the RAQS.

The project site is located within the Mid-City Communities Plan area and would be consistent with the land use designation of General Commercial with Limited Light Industrial Use, that allows the retail commercial uses. As such, the project would be consistent with the growth forecasts developed by SANDAG and used in the RAQS. Therefore, the project would not conflict with the goals and strategies in the RAQS or obstruct their implementation. No such impacts, therefore, would occur.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Construction

Sources of construction-related air emissions include fugitive dust from grading activities; construction equipment exhaust; construction-related trips by workers, delivery trucks, and material-hauling trucks; and construction-related power consumption. The project includes minor exterior, interior and driveway improvements. The project does not require grading or any substantial earthwork. Therefore, construction-related activities would be considered minor, temporary, short-term sources of air emissions. Construction impacts would be less than significant.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Operation

Long-term operational air emission impacts are those associated with stationary sources and mobile sources related to any change caused by a project. The project is consistent with the General Plan, Community Plan and the zoning designation. Therefore, project emissions over the long-term are not anticipated to violate any air quality standard or contribute substantially to an existing or projected air quality violation. Operational impacts would be less than significant.

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|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

The project would be consistent with the General Plan, Community Plan and the zoning designation. Construction emissions could temporarily increase the emissions of dust and other pollutants. However, any construction emissions would be temporary and short-term in duration with the implementation of Best Management Practices (BMPs) to reduce any potential impacts to a less than significant level. Construction of the project in the region is not anticipated to result in significant emissions of any pollutants and would not create considerable contributions of any criteria pollutant for which the region is non-attainment. Therefore, the project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under applicable federal or state ambient air quality standards. Impacts would be less than significant.

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|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| d) Create objectionable odors affecting a substantial number of people? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

The project would provide an odor absorbing ventilation and exhaust system capable of eliminating any potential excessive or offensive odors, as a condition of approval. The project is not anticipated to create substantial amounts of objectionable odors. Impacts would be less than significant.

IV. BIOLOGICAL RESOURCES – Would the project:

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|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a) Have substantial adverse effects, 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 the California Department of Fish and Game or U.S. Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

The site is almost entirely developed as a vehicle repair shop on a graded pad and no native habitat is located within the project's construction footprint. Brush Management Zone Two overlaps with a portion of previously disturbed hillside that contains a small patch of native coastal sage-chaparral mix vegetation including approximately three Nuttall's scrub oak (*Quercus dumosa*) shrubs. This special status species has a California Rare Plant Rank of 1B.1, but no federal or state listing. The

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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individuals within the brush management zone (Zone Two) would not be removed during thinning of vegetation; and will be preserved in place. Brush Management Zone Two is impact neutral. Therefore, the proposed project would not directly, or through habitat modification adversely affect any species identified as candidate, sensitive or special status species in local or regional plans, policies or regulations, or by California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife (USFWS). A portion of the City's Multi-Habitat Planning Area (MHPA) hard-line preserve is mapped along the southeastern edge of the site and would not be directly impacted by the project. Additionally, the project would be required to implement the MSCP Land Use Adjacency, as a condition of approval. Implementation of the MSCP Land Use Adjacency would reduce potential indirect impacts to below a level of significance. Therefore, the project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as candidate, sensitive or special status species. No adverse effects would occur.

- b) Have a substantial adverse effect on any riparian habitat or other community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

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See response IV(a) above. A portion of a channelized tributary to Chollas Creek is located along the northwestern property boundary. This channelized tributary has concrete banks and a cobble bed. Any vegetation that grows within the tributary channel is subject to maintenance and clearing by the City for storm water management, and natural riparian habitat is not present in the channel. The tributary bank is separated from the project construction footprint by a chain-link fence. The only project-related change to conditions along the edge of the bank would be the installation of native and drought tolerant vegetation. The channelized tributary would not be impacted by the project. The project would have no substantial adverse effect on any riparian or other sensitive habitat. No such impacts, therefore, would occur.

- c) Have a substantial adverse effect on federally protected wetlands as defined by section 404 of the Clean Water Act (including but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

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See response IV(b) above. The channelized tributary contains federally protected Waters of the U.S. but does not contain wetlands as defined by Section 404 of the Clean Water Act. The channelized tributary would not be directly or indirectly impacted by the project. The project would have no substantial adverse effect upon such wetlands. No such impacts, therefore, would occur.

- d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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The site would not serve as a wildlife corridor because it does not form a connection to other potential wildlife habitat nearby. The site is separated by a chain-link fence between the developed pad and the tributary channel to the west. The site abuts native habitat, to the southeast, and is separated by a chain-link fence along the southeastern boundary. Furthermore, the proposed tenant improvements and exterior wall improvements do not involve the expansion of the existing building envelope, and the project would not directly impact sensitive biological resources. Therefore, the project would not substantially interfere with the movement of any native or migratory fish or wildlife species, wildlife corridors, or impede the use of native wildlife nursery sites. No such impacts, therefore, would occur.

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|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

See IV.a. A portion of the City's Multi-Habitat Planning Area (MHPA) hard-line preserve is mapped along the southeastern edge of the site and would not be directly impacted by the project. The project would be required to implement the MSCP Land Use Adjacency, for potential indirect impacts, as a condition of approval. Implementations of the MSCP Land Use Adjacency would reduce impacts to below a level of significance. Therefore, the project would not conflict with any local policies or ordinances protecting biological resources, including the tree preservation policy or ordinance. Impacts would be less than significant.

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|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|

See response IV(e) above. A portion of the City's Multi-Habitat Planning Area (MHPA) hard-line preserve is mapped along the southeastern edge of the site and would not be directly impacted by the project. The project would be required to implement the MSCP Land Use Adjacency for potential indirect impacts, as a condition of approval. Therefore, the Project would not conflict with any adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other regional, or state conservation plan.

V. CULTURAL RESOURCES – Would the project:

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Built Environment

See V.b. The City of San Diego criteria for determination of historic significance is based on the criteria found in Section 15064.5 of the State CEQA Guidelines, and the Historical Resources Regulations of the Land Development Code (Chapter 11, Article 3, Division 1). The purpose and intent of the Historical Resources Regulations of the Land Development Code is to protect, preserve and, where damaged, restore the historical resources of San Diego. These regulations apply to all proposed development within the City of San Diego. The determination of significance for historic

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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buildings, structures, objects and landscapes is based on age (over 45 years), location, context, association with an important person or event, uniqueness, and integrity of the building. The existing building was constructed approximately 1987, the structure is less than 45 years of age, and therefore, is not subject to a historical review. Therefore, the renovation of the existing structure would not result in a substantial adverse effect of a historical resource as defined in §15064.5. No such impacts, therefore, would occur.

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Archeological Resources

According to the archaeological maps in the Environmental Analysis Section library, the site is located in a high sensitivity area for archaeological resources. The project proposes improvements within an existing facility and site improvements with minimal ground disturbance in a previously disturbed area of the site. Therefore, the project is not expected to cause a substantial adverse change to significant archaeological resources, because the site has been disturbed by past development. Therefore, the project would not result in a substantial adverse effect to any archaeological resources. No impact would occur.

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

According to the Geology of the San Diego Metropolitan Area, the site is underlain by the San Diego and Linda Vista Formations. San Diego Formation is highly sensitive, and the Linda Vista Formation is moderately sensitive for paleontological resources. The City of San Diego CEQA Significance Determination Thresholds states that impacts to paleontological resources may occur when a project requires over 1,000 cubic yards of grading/excavation at a depth of 10 feet or greater in high resource potential geologic formation, or over 2,000 cubic yards at a depth of 10 feet or greater of grading/excavation in moderate resource potential geologic formation. The project proposes the import of 25 cubic yards and the fill of 25 cubic yards. Therefore, the project would not meet the thresholds for impacts to paleontological resources, therefore monitoring for paleontological resources is not required. Therefore, the project would not directly or indirectly destroy any paleontological resources or unique geologic features. No such impacts, therefore, would occur.

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Disturb and human remains, including those interred outside of dedicated cemeteries? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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Refer to V.A. above, no formal cemeteries or human remains are known to exist on-site or in the vicinity. No such impacts, therefore, would occur.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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VI. GEOLOGY AND SOILS – Would the project:

- a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

- i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

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The project site is not located within an Alquist-Priolo Earthquake Fault Zone and is not traversed by any known earthquake faults. According to the City of San Diego Seismic Safety Study Maps, the project site is located within Geologic Hazard Categories (GHC) 32 and 52. GHC 32 is characterized as liquefaction; Low Potential-fluctuating groundwater minor drainages, and GHC 52 is characterized as other level areas, gently sloping to steep terrain, favorable geologic structure, low risk. The project would be required to comply with seismic requirements of the California Building Code. Implementation of proper engineering design and utilization of standard construction practices to be verified at the building permit stage would ensure that the potential for impacts from regional geologic hazards would be less than significant, and no mitigation measures are deemed necessary.

- ii) Strong seismic ground shaking?

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As noted in VI.a. the project would be required to comply with seismic requirements of the California Building Code. Implementation of proper engineering design and utilization of standard construction practices to be verified at the building permit stage would ensure that the potential for impacts from regional geologic hazards would be less than significant, and no mitigation measures are deemed necessary.

- iii) Seismic-related ground failure, including liquefaction?

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Liquefaction occurs when loose, unconsolidated, water-laden soils are subject to shaking, causing the soils to lose cohesion. The site is located within Geologic Hazard Categories 32, which is characterized as a low potential for liquefaction ground failure, due to low fluctuating groundwater and minor drainages. The project would be required to comply with seismic requirements of the California Building Code. Implementation of proper engineering design and utilization of standard construction practices to be verified at the building permit stage would ensure that the potential for impacts from regional geologic hazards would be less than significant, and no mitigation measures are deemed necessary. Therefore, seismic-related ground failure, including liquefaction, is not anticipated to occur. Impacts would be less than significant.

- iv) Landslides?

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See VI(a)(i). The project would be required to comply with seismic requirements of the California Building Code. Implementation of proper engineering design and utilization of standard

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
construction practices to be verified at the building permit stage would ensure that the potential for impacts from regional geologic hazards would be less than significant, and no mitigation measures are deemed necessary. Impacts would be less than significant.				
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The project site does not propose grading or excavation activities. The project would implement source control Best Management Practices (BMPs). With implementation of BMPs, the project would not result in substantial soil erosion or the loss of topsoil. Impacts would be less than significant.				
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Refer to responses IV (a), above. The project would be required to comply with seismic requirements of the California Building Code. Implementation of proper engineering design and utilization of standard construction practices to be verified at the building permit stage would ensure that the potential for impacts from regional geologic hazards would be less than significant, and no mitigation measures are deemed necessary. Impacts would be less than significant.				
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Refer to responses IV (a), above. The project is not located on a site that is subject to expansive soil, as defined in Table 18-1-B of the Uniform Building Code, and would not create substantial risks to life or property. Impacts would be less than significant.				
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The project site is located in an area that is already developed with existing available utility infrastructure, including water and sewer lines. The project would not require the use of any septic systems. No impact would occur.				
VII. GREENHOUSE GAS EMISSIONS – Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CAP Consistency Checklist is the City's significance threshold utilized to ensure project-by-project consistency with the underlying assumptions in the CAP and to ensure that the City would achieve				

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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its emission reduction targets identified in the CAP. The CAP Consistency Checklist includes a three-step process to determine if the project would result in a Greenhouse Gas (GHG) impact. Step 1 consists of an evaluation to determine the project's consistency with existing General Plan, Community Plan, and zoning designations for the site. Step 2 consists of an evaluation of the project's design features compliance with the CAP strategies. Step 3 is only applicable if a project is not consistent with the land use and/or zone, but is also in a transit priority area to allow for more intensive development than assumed in the CAP.

Under Step 1 of the CAP Checklist, the project is consistent with the existing General Plan, Community Plan designations as well as zoning for the site. Therefore, the project is consistent with the growth projections and land use assumptions used in the CAP. Furthermore, completion of Step 2 of the CAP Checklist demonstrates that the project would be consistent with applicable strategies and actions for reducing GHG emissions. This includes project features consistent with the energy & water efficient buildings, electrical vehicle charging, as well as bicycling, walking, transit, and land use strategy. As a voluntary measure, the project would install solar panels on the roof of the building, as shown on development plan, Sheet A2.5. Thus, the project is consistent with the CAP. Step 3 of the CAP Consistency Checklist would not be applicable, as the project is not proposing a land use amendment or a rezone. Based on the project's consistency with the City's CAP Checklist, the project's contribution of GHG emissions to cumulative statewide emissions would be less than cumulatively considerable. Therefore, impacts would be less than significant.

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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Refer to VII(a). The project is consistent with adopted CAP Checklist. The project would not conflict with an applicable plan, policy, or regulation adopted for reducing the greenhouse gas emissions. No impact would occur.

VIII. HAZARDS AND HAZARDOUS MATERIALS – Would the project:

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Due to the nature of the project, the routine transport, use, or disposal of hazardous materials would not occur. The project would not generate hazardous emissions. The project does not involve the handling of acutely hazardous materials, substances, or waste. Any potentially hazardous materials used on the site would be those restricted to standard cleaning and landscape care products, other household products, building materials such as paint, concrete, and asphalt, and similar substances. Appropriate handling techniques shall be implemented for the use and disposal of these materials in accordance with the manufacturer's instructions, and applicable federal, and state laws, and local regulations. Therefore, the project would not create a significant hazard to the public or environment through the routine transport, use or disposal of hazardous materials. No such impacts, therefore, would occur.

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| b) Create a significant hazard to the public | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Refer to VIII(a), above. No hazardous materials are proposed for use as part of the project. Therefore, the project would not result in a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. No such impacts, therefore, would occur.

- c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

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Refer to VIII(a), above. There are no existing or proposed schools within a quarter mile from the project site. The closest school to the project site is Webster Elementary, located approximately 0.5 mile to the southeast, and Hamilton Elementary located north of the site is more than one-quarter mile from the subject site. Therefore, the project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. No impact would occur.

- d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

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As part of the environmental review for the project, a review of hazardous materials databases, compiled pursuant to Government Code Section 65962.5 (also known as the Cortese List), were reviewed. The project site is not included on any hazardous materials sites compiled pursuant to Government Code section 65962.5. No impact would occur.

- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two mile of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

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The project site is not located within 2 miles of a public airport. The project is located approximately 4.5 miles to the east of the San Diego International Airport. Therefore, the project would not result in a safety hazard for people residing or working in the project area. No impact would occur.

- f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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The project is not within the vicinity of a private airstrip. Therefore, the project would not result in a safety hazard for people residing or working in the project area. No impact would occur.

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|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

The project is located on a developed site within an urban area that is currently served by emergency services and would not interfere with the implementation of or physically interfere with an adopted emergency response or evacuation plan. No roadway improvements are proposed that would interfere with circulation or access. As part of the project, an existing 24 foot driveway would be re-constructed adjacent to the site on Fairmount Avenue, to meet City standards. Therefore, implementation of the project would not interfere with any adopted emergency response or evacuation plan. Impacts would be less than significant.

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|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|

As part of the project, a Brush Management Program would be implemented. Brush management Zone One includes the area adjacent to the structure, is considered the least flammable, and would consist of pavement and permanently irrigated native and drought tolerant planting. Brush management Zone Two is located between Brush Management Zone One and any undisturbed, native or naturalized vegetation. The brush management zones were established based on the existing structure. Zone One width ranges from 8'-4" to 42'-4" while Brush Management Zone Two width ranges from 5'9" to 19'8". All proposed landscape and irrigation onsite would conform to the standards of the City-wide Landscape Regulations and the City of San Diego Land Development Manual Landscape Standards, and other landscape related City and regional standards. The project is not required to provide alternative compliance measures since this is an existing, previously conforming structure. However, the project is proposing to provide additional fire-resistant measures, such as upgrading openings to dual glazed and dual tempered panes. With implementation of the brush management program, appropriate landscaping and fire-resistant construction, the project would not expose people or structures to a significant risk of loss, injury or death involving wildland fires. Impacts would be less than significant.

IX. HYDROLOGY AND WATER QUALITY - Would the project:

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Violate any water quality standards or waste discharge requirements? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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A Preliminary Hydrology Study was completed by K&S Engineering (July 26, 2018) and a FEMA Letter of Map Amendment was prepared for the project (October 3, 2018). The project would be considered a low priority Storm Water Construction Site due to minimal site disturbance during construction. The project would implement source control BMPs and a Water Pollution Control Plan.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Therefore, the project would not result in a violation of any water quality standards or waste discharge requirements. No impact would occur.

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project does not propose the use of local groundwater supplies or the construction of groundwater wells. The project is located in an urban neighborhood where all infrastructure exists. The project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge. No impact would occur.

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner, which would result in substantial erosion or siltation on- or off-site? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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See IX.a. A Preliminary Hydrology Study was completed by K&S Engineering, Inc. (July 26, 2018). Although the project site contains a portion of a channelized tributary to Chollas Creek, the project would not result in any direct or indirect impacts to this creek. As determined in the Hydrology Study, the site drainage path would remain the same as the existing conditions under the project, and the project improvements would result in a reduction of runoff generated. Additionally, the project would implement source control BMPs, and a Water Pollution Control Plan. Therefore, the project would not substantially alter the course of a stream or river in a manner that would result in erosion or siltation on or off-site. No impact would occur.

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|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project would not result in any direct or indirect impacts to the onsite portion of Chollas Creek. As determined in the Hydrology Study, the site drainage path would remain the same as the existing conditions under the project, and project improvements would result in a reduction of runoff generated. Therefore, the project would not substantially alter the existing drainage pattern or alter the course of a stream or river in a manner that would result in flooding on, or offsite. No impact would occur.

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|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| e) Create or contribute runoff water, which would exceed the capacity of existing or | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

The site currently contains two basins that discharge at the existing channel via sheet flow and an underground pipe. The site drainage path will remain the same as the existing conditions and project improvements would result in a reduction of runoff generated. Therefore, the project would not create runoff water in a manner that would exceed the capacity of the existing storm water drainage system. No impact would occur.

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| f) Otherwise substantially degrade water quality? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
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The project would comply with all City storm water quality standards during construction, including implementing a Water Pollution Control Plan and appropriate BMPs to ensure that water quality is not degraded. Impacts would be less than significant.

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| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project does not propose any housing. No impact would occur.

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|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| h) Place within a 100-year flood hazard area, structures that would impede or redirect flood flows? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

A Preliminary Hydrology Study was completed by K&S Engineering (July 26, 2018) and a FEMA Letter of Map Amendment was prepared for the project (October 3, 2018). The project is located in a Special Flood Hazard Area and as part of the project, a Letter of Map Revision removing the site from the FEMA floodplain was prepared and a Conditional Letter of Map Revision was approved. Qualified City staff has reviewed the project and deemed there are no significant flood hazards potentially affecting the project. Therefore, the project would not place any structures that would impede or redirect flood flows within a 100-year flood hazard area. Impacts would be less than significant.

X. LAND USE AND PLANNING – Would the project:

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|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Physically divide an established community? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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The project would be located within an existing structure on a developed site and would not physical divide an established community. No impact would occur.

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|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

The project in the IL-3-1 (Industrial-Light) and OR-1-1 (Open Space-Residential) Zones of the City Heights Neighborhood of the Mid-City Communities Planning area, City Heights Redevelopment Project, Brush Management and the Very High Fire Hazard Severity Zone. The Community Plan designates the site as General Commercial with Limited Light Industrial Use, and the General Plan designates the site as Industrial Employment. The project would not significantly increase the intensity of the allowed land use. The project site is developed with an existing commercial structure and associated surface parking. The project proposes the renovation of an existing building, within the allowable height and bulk regulations of the underlying zone. As such, the project would not exceed the height and/or bulk regulations, and would not significantly contrast with surrounding development. The project would not conflict with the land use designations of the General and Community Plan, and the underlying zone. A portion of the City's MHPA hard-line preserve is mapped along the southeastern edge of the site, and therefore, the project is subject to regulations pertaining to projects within or adjacent to the MHPA. The project would implement the MSCP Land Use Adjacency, as a condition of approval. Implementation of the MSCP Land Use Adjacency would reduce impacts to below a level of significance. The project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project. No such impacts, therefore, would occur.

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|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

See X.b. The project was designed to avoid direct impacts to sensitive biological resources, and Environmentally Sensitive Lands (ESL). The project also complies with Steep Hillside ESL regulations because (a) brush management on the hillside on the southeastern edge of the Site is exempt from Steep Hillside ESL regulations because it will be the minimum necessary to comply with the City fire codes and no grading will occur on the hillside, and (b) Zone One brush management is permitted on slopes with gradient greater than 4:1 because the property received tentative map approval before November 15, 1989 per SDMC 142.0412. A portion of the City's Multi-Habitat Planning Area (MHPA) hard-line preserve is mapped along the southeastern edge of the site and would not be directly impacted by the project. Additionally, the project would be required to implement the MSCP Land Use Adjacency as a condition of approval. Implementation of the MSCP Land Use Adjacency would address any potential indirect impacts. Therefore, the project would not conflict with any applicable habitat conservation plan or natural community conservation plan. With implementation of MSCP Land Use Adjacency would reduce potential indirect impacts to below level of significance.

XI. MINERAL RESOURCES – Would the project:

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|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project site is not being used for mineral resource extraction and is zoned for industrial use and open space. There are such resources located on the project site. No impact would occur.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Refer to XI (a), above.

XII. NOISE – Would the project result in:

a) Generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Short-term noise impacts would occur from the demolition, grading and construction activities from the project. Construction-related short-term noise levels would be higher than existing ambient noise levels in the project area, but would no longer occur once construction is completed. Sensitive receptors (e.g. residential uses) are located in the area and may be temporarily affected by construction noise; however, construction activities would be required to comply with the construction hours specified in City's Municipal Code, (Section 59.5.0404, Construction Noise), which are intended to reduce potential adverse effects resulting from construction noise. With compliance to the City's construction noise requirements, project construction noise levels would be reduced to less than significant, and no mitigation measures are deemed necessary.

For the long-term, typical noise levels associated with the existing commercial uses are anticipated, however, the project would not increase the existing ambient noise levels. Further, the project would comply with the City's General Plan and Noise Ordinance. Therefore, the project would not result in noise levels in excess of the standards established in the City of San Diego General Plan or Noise Ordinance. No significant long-term impacts would occur, and no mitigation measures are deemed necessary.

b) Generation of, excessive ground borne vibration or ground borne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The project does not propose any major construction activities, such as pile driving or rock blasting, which have the potential to result in ground borne vibration or ground borne noise. Therefore, no ground borne vibrations would be generated. Potential effects from construction noise would be reduced through compliance with Section 59.5.0404 of the Municipal Code. Therefore, the project would not expose people to excessive generation of ground bourne vibration or noise levels. No impact would result.

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Refer to XII.a. Impacts would be less than significant.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Refer to XII.a. Temporary construction noise would result from the proposed development of a MO facility. Construction-related noise impacts from the project development would generally be higher than existing ambient noise levels in the project area but would no longer occur once construction is completed. In addition, the project would be required to comply with the San Diego Municipal Code, Article 9.5, "Noise Abatement and Control." Compliance with these standard measures would reduce potential impacts to below a level of significance.

e) For a project located within an airport land use plan, or, where such a plan has not been adopted, within two miles of a public airport or public use airport would the project expose people residing or working in the area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The project site is not located within 2 mile of a public airport and is not located within an airport land use plan. The nearest airport to the project site is the San Diego International Airport, located approximately 4.5 miles west from the project site. Construction and operation of the project would not introduce or expose people residing or working in the area to excessive noise levels as it relates to aircraft noise. No impact would occur.

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The project is not located within the vicinity of a private airstrip. No impact would occur.

XIII. POPULATION AND HOUSING – Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The project does not include the construction of any new homes however the project proposes the renovation of an existing facility, which is already served by established roads and other infrastructures. The project is unlikely to cause significant growth as there are no new homes, businesses, roadways or significant infrastructures proposed. Therefore, implementation of the project would not directly or indirectly induce substantial population growth in the area. No impact would occur.

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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The project would not displace any existing housing or require the construction of housing elsewhere. No impact would occur.

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project would allow for a MO to operate within a 2,800 square foot space of an existing 3,976 square foot commercial building. There is no housing onsite and, therefore, construction and operation of project would not displace any people or require the construction of housing elsewhere. No impact would occur.

XIV. PUBLIC SERVICES

- a) Would the project result in substantial adverse physical impacts associated with the provisions of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service rations, response times or other performance objectives for any of the public services:

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|--------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| i) Fire protection | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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The project site is located in an urbanized and developed area where fire protection services are already provided. The closest fire station to the project site is the San Diego Fire Department Fairmount Station, located approximately 0.35 mile to the southeast. The project would not adversely affect existing levels of fire protection services to the area and would not require the construction of any new fire facilities. No impact would occur.

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| ii) Police protection | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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The project site is located in an urbanized and developed area where police protection services are already provided. The closest police station to the project site is the San Diego Police Mid-City Division Station, located approximately 1.18 miles to the north. The project would not adversely affect existing levels of police protection services to the area and would not require the construction of any new police facilities. No impact would occur.

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| iii) Schools | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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The project would not result in the addition of any school aged children that would require school facilities. Therefore, the project would not necessitate the construction of new or physically altered school facilities. No impact would occur.

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| iv) Parks | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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The project site is located in an urbanized and developed area where City-operated park services are already provided. The project does not include the construction of any residences that would require the use of park facilities and would not significantly increase the demand on existing neighborhood or regional parks, or other recreational facilities over that which presently exists for

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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parks or other offsite recreational facilities. Therefore, the project would not necessitate the construction of new or physically altered offsite park facilities. No impact would occur.

v) Other public facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The project site is located in an urbanized and developed area where City services are already available. The project would not adversely affect existing levels of public services and not require the construction or expansion of an existing governmental facility. Therefore, no new public facilities beyond existing conditions would be required.

XV. RECREATION

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The project does not include the construction of any residences that would require the use of recreational facilities and would not significantly increase the demand on existing recreational facilities over that which presently exists. Therefore, the project would not adversely affect the availability of and/or need for new or expanded recreational resources, and would not require the construction or expansion of an existing recreational facility. The project would not result in the use of available parks or facilities such that substantial deterioration occurs, or that would require the construction or expansion of recreational facilities to satisfy demand. As such, no impact related to recreational facilities would occur.

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Refer to XV (a) above. The project does not propose recreation facilities nor require the construction or expansion of any such facilities. No impact would occur.

XVI. TRANSPORTATION/TRAFFIC – Would the project?

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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As part of the project, an Access Analysis was prepared by Urban Systems Associates, Inc. (December 12, 2018). The Access Analysis determined that total project trip generation for the project would be a net increase of 620 average daily trips (ADT) with 58 AM peak hour trips (28 in / 30 out) and 103 PM peak hour trips (52 in / 51 out). Based on the Access Analysis, the project is not expected to have any significant impacts on the study street segments and intersections under Existing With Project or Near-Term With Project (Opening Day Year 2020) conditions. Impacts would be less than significant.

- b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

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Refer to response XVI (a). The project is not expected to create any significant impacts to the study street segments and intersections under Existing With Project or Near-Term With Project (Opening Day Year 2020) conditions. Therefore, the project would not result in conflict with any applicable congestion management program level of service standards. Impacts would be less than significant.

- c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

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Implementation of the project would not result in any changes in air traffic patterns as the project site is not located within a vicinity of a private or public airport. No impact would occur.

- d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

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The project will be designed to City and industry standards and would not include any elements that could potentially create a hazard to the public. Impacts would be less than significant.

- e) Result in inadequate emergency access?

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The project includes the re-construction of a 24-foot driveway to meet City standards. All project improvements would be made to meet City standards and the project would not result in inadequate emergency access. No impact would occur.

- f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?

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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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The project includes the re-construction of a 24-foot driveway to meet City standards, provides 16 parking spaces, provides an accessible path of travel from the adjacent public right-of-way to the project entrance, and the replacement of the curb, gutter and sidewalk on Fairmount Avenue. In addition, the project would construct a new bus stop concrete slab on Fairmount Avenue along the project's frontage. Two short-term bicycle parking spaces and one long-term bicycle parking space would also be provided. The project site is located in close proximity (within 1,320 feet of walking distance) to six bus stops. The project would not conflict with any adopted plans, policies or programs regarding alternative transportation. Impacts would be less than significant.

XVII. TRIBAL CULTURAL RESOURCES – Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or

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The project would not cause a substantial adverse effect to tribal cultural resources, as there are no recorded sites listed or sites eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k). No such impacts, therefore, would occur.

- b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

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Tribal Cultural Resources include sites, features, places, cultural landscapes, and sacred places or objects that have cultural value or significance to a Native American Tribe. Tribal Cultural Resources include “non-unique archaeological resources” that, instead of being important for “scientific” value as a resource, can also be significant because of the sacred and/or cultural tribal value of the resource. Tribal representatives are considered experts appropriate for providing substantial evidence regarding the locations, types, and significance of tribal cultural resources within their traditionally and cultural affiliated geographic area (PRC § 21080.3.1(a)). The City, as lead agency, determined that Tribal Cultural Resources pursuant to subdivision Public Resources Code Section 5024.1(c) would not be potentially impacted through project implementation and no grading or excavation would occur. No such impacts, therefore, would occur.

XVIII. UTILITIES AND SERVICE SYSTEMS – Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Implementation of the project would not interrupt existing sewer service to the project site or other surrounding development. The project is not anticipated to generate significant amount of wastewater. Wastewater facilities used by the project would be operated in accordance with the applicable wastewater treatment requirements of the Regional Water Quality Control Board (RWQCB). Existing sewer infrastructure exists within roadways surrounding the project site and adequate services currently serve the project site. Therefore, the project would not exceed wastewater treatment requirements of the RWQCB. No such impacts, therefore, would occur.

b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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See XVII (a) above. Adequate services are available to serve the site and the project would not require the construction or expansion of existing facilities. No such impacts, therefore, would occur.

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The project would not exceed the capacity of the existing storm water system or require the construction of new or expanded treatment facilities of which would cause significant environmental effects. No such impacts, therefore, would occur.

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The project does not meet the City's CEQA Significance Determination Thresholds of 250,000 s.f. of commercial space, therefore a Water Supply Assessment was not required for the project. The site currently receives water service from the City, and adequate services are available to serve the project without requiring new or expanded entitlements. No such impacts, therefore, would occur.

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The project would not adversely affect existing wastewater treatment services. Adequate services are available to serve the site without requiring new or expanded facilities. No such impacts, therefore, would occur.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The City's CEQA Thresholds for solid waste states that projects may result in cumulative solid waste impacts when the construction, demolition, and/or renovation of 40,000 square feet or more of building space occur or direct impacts may occur when 1,000,000 square feet or more of building space is constructed or renovated. The project proposes renovations to an existing 3,976 square foot commercial building and would not exceed the established thresholds for direct or cumulative solid waste impacts. Therefore, a Waste Management Plan was not required. The project would be served by a landfill with sufficient permitted capacity to accommodate the project's disposal needs. The City has enacted codes and policies aimed at helping it achieve this diversion level, including the Refuse and Recyclable Materials Storage Regulations (Municipal Code Chapter 14, Article 2 Division 8), Recycling Ordinance (Municipal Code Chapter 6, Article 6, Division 7), and the Construction and Demolition (C&D) Debris Deposit Ordinance (Municipal Code Chapter 6, Article 6, Division 6). The project would comply with these codes and regulations. Impacts would be less than significant.

g) Comply with federal, state, and local statutes and regulation related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The project would comply with all federal, state and local statutes and regulations related to solid waste. No impact would occur.

XIX. MANDATORY FINDINGS OF SIGNIFICANCE –

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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As documented in this Initial Study, the project would not have the potential to degrade the quality of the environment or eliminate important examples of the major periods of California history or prehistory. Impacts would be less than significant.

b) Does the project have impacts that are individually limited but cumulatively considerable ("cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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As documented in this Initial Study, the project would not have the potential to degrade the quality of the environment. As such, no mitigation measures would be required because all impacts would be less than significant. Therefore, the project does not have the potential to result in cumulative considerable environmental effects. Impacts would be less than significant.

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| c) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

As documented in this Initial Study, it is not anticipated that implementation of the project and construction activities associated with the renovation of the existing facility would create conditions that would significantly directly or indirectly impact human beings. No such impacts, therefore, would occur.

**INITIAL STUDY CHECKLIST
REFERENCES**

I. Aesthetics / Neighborhood Character

- ☒ City of San Diego General Plan
- ☒ Community Plans: –Mid City Communities Plan

II. Agricultural Resources & Forest Resources

- ☐ City of San Diego General Plan
- ☐ U.S. Department of Agriculture, Soil Survey - San Diego Area, California, Part I and II, 1973
- ☐ California Agricultural Land Evaluation and Site Assessment Model (1997)
- ☐ Site Specific Report:

III. Air Quality

- ☐ California Clean Air Act Guidelines (Indirect Source Control Programs) 1990
- ☐ Regional Air Quality Strategies (RAQS) - APCD
- ☐ Site Specific Report:

IV. Biology

- ☒ City of San Diego, Multiple Species Conservation Program (MSCP), Subarea Plan, 1997
- ☒ City of San Diego, MSCP, "Vegetation Communities with Sensitive Species and Vernal Pools" Maps, 1996
- ☒ City of San Diego, MSCP, "Multiple Habitat Planning Area" maps, 1997
- ☐ Community Plan - Resource Element
- ☐ California Department of Fish and Game, California Natural Diversity Database, "State and Federally-listed Endangered, Threatened, and Rare Plants of California," January 2001
- ☐ California Department of Fish and Game, California Natural Diversity Database, "State and Federally-listed Endangered and Threatened Animals of California," January 2001
- ☐ City of San Diego Land Development Code Biology Guidelines

V. Cultural Resources (includes Historical Resources and Built Environment)

- ☒ City of San Diego Historical Resources Guidelines
- ☒ City of San Diego Archaeology Library
- ☐ Historical Resources Board List
- ☐ Community Historical Survey:
- ☐ Site Specific Report:

VI. Geology/Soils

- ☒ City of San Diego Seismic Safety Study
- ☐ U.S. Department of Agriculture Soil Survey - San Diego Area, California, Part I and II, December 1973 and Part III, 1975
- ☐ Site Specific Report:

VII. Greenhouse Gas Emissions

- ☒ Site Specific Report: Climate Action Plan Consistency Checklist, June 2017

VIII. Hazards and Hazardous Materials

- ☒ San Diego County Hazardous Materials Environmental Assessment Listing
- ☐ San Diego County Hazardous Materials Management Division
- ☐ FAA Determination
- ☐ State Assessment and Mitigation, Unauthorized Release Listing, Public Use Authorized
- ☐ Airport Land Use Compatibility Plan
- ☒ Site Specific Report: Hazardous Materials Reporting Form DS-165

IX. Hydrology/Drainage

- ☐ Flood Insurance Rate Map (FIRM)
- ☒ Federal Emergency Management Agency (FEMA), National Flood Insurance Program-Flood Boundary and Floodway Map
- ☐ Clean Water Act Section 303(b) list, http://www.swrcb.ca.gov/tmdl/303d_lists.html
- ☒ Site Specific Report: Preliminary Hydrology Study for 2281 Fairmount Avenue, prepared by K&S Engineering, Inc., July 26, 2018.
- ☒ Site Specific Report: Letter of Map Amendment, prepared by Federal Emergency Management Agency, dated October 3, 2018.

X. Land Use and Planning

- ☒ City of San Diego General Plan
- ☒ Community Plan
- ☒ Airport Land Use Compatibility Plan
- ☒ City of San Diego Zoning Maps
- ☐ FAA Determination:
- ☐ Other Plans:

XI. Mineral Resources

- ☐ California Department of Conservation - Division of Mines and Geology, Mineral Land Classification
- ☐ Division of Mines and Geology, Special Report 153 - Significant Resources Maps
- ☐ City of San Diego General Plan: Conservation Element
- ☐ Site Specific Report:

XII. Noise

- ☒ City of San Diego General Plan
- ☐ Community Plan
- ☐ San Diego International Airport - Lindbergh Field CNEL Maps
- ☐ Brown Field Airport Master Plan CNEL Maps
- ☐ Montgomery Field CNEL Maps
- ☐ San Diego Association of Governments - San Diego Regional Average Weekday Traffic Volumes
- ☐ San Diego Metropolitan Area Average Weekday Traffic Volume Maps, SANDAG
- ☐ Site Specific Report:

XIII. Paleontological Resources

- ☒ City of San Diego Paleontological Guidelines
- ☐ Deméré, Thomas A., and Stephen L. Walsh, "Paleontological Resources City of San Diego," Department of Paleontology San Diego Natural History Museum, 1996
- ☐ Kennedy, Michael P., and Gary L. Peterson, "Geology of the San Diego Metropolitan Area, California. Del Mar, La Jolla, Point Loma, La Mesa, Poway, and SW 1/4 Escondido 7 1/2 Minute Quadrangles," *California Division of Mines and Geology Bulletin* 200, Sacramento, 1975
- ☐ Kennedy, Michael P., and Siang S. Tan, "Geology of National City, Imperial Beach and Otay Mesa Quadrangles, Southern San Diego Metropolitan Area, California," Map Sheet 29, 1977
- ☐ Site Specific Report:

XIV. Population / Housing

- ☒ City of San Diego General Plan
- ☒ Community Plan
- ☐ Series 11/Series 12 Population Forecasts, SANDAG
- ☐ Other:

XV. Public Services

- ☐ City of San Diego General Plan
- ☐ Community Plan

XVI. Recreational Resources

- ☐ City of San Diego General Plan
- ☐ Community Plan
- ☐ Department of Park and Recreation
- ☐ City of San Diego - San Diego Regional Bicycling Map
- ☐ Additional Resources:

XVII. Transportation / Circulation

- ☐ City of San Diego General Plan
- ☐ Community Plan: Mid-City Communities Plan, City of San Diego, August 4, 1998
- ☐ San Diego Metropolitan Area Average Weekday Traffic Volume Maps, SANDAG
- ☐ San Diego Region Weekday Traffic Volumes, SANDAG
- ☒ Site Specific Report: 2281 Fairmount Avenue CUP – Access Analysis Memorandum, prepared by Urban Systems Associates, Inc., December 12, 2018.

XVIII. Utilities

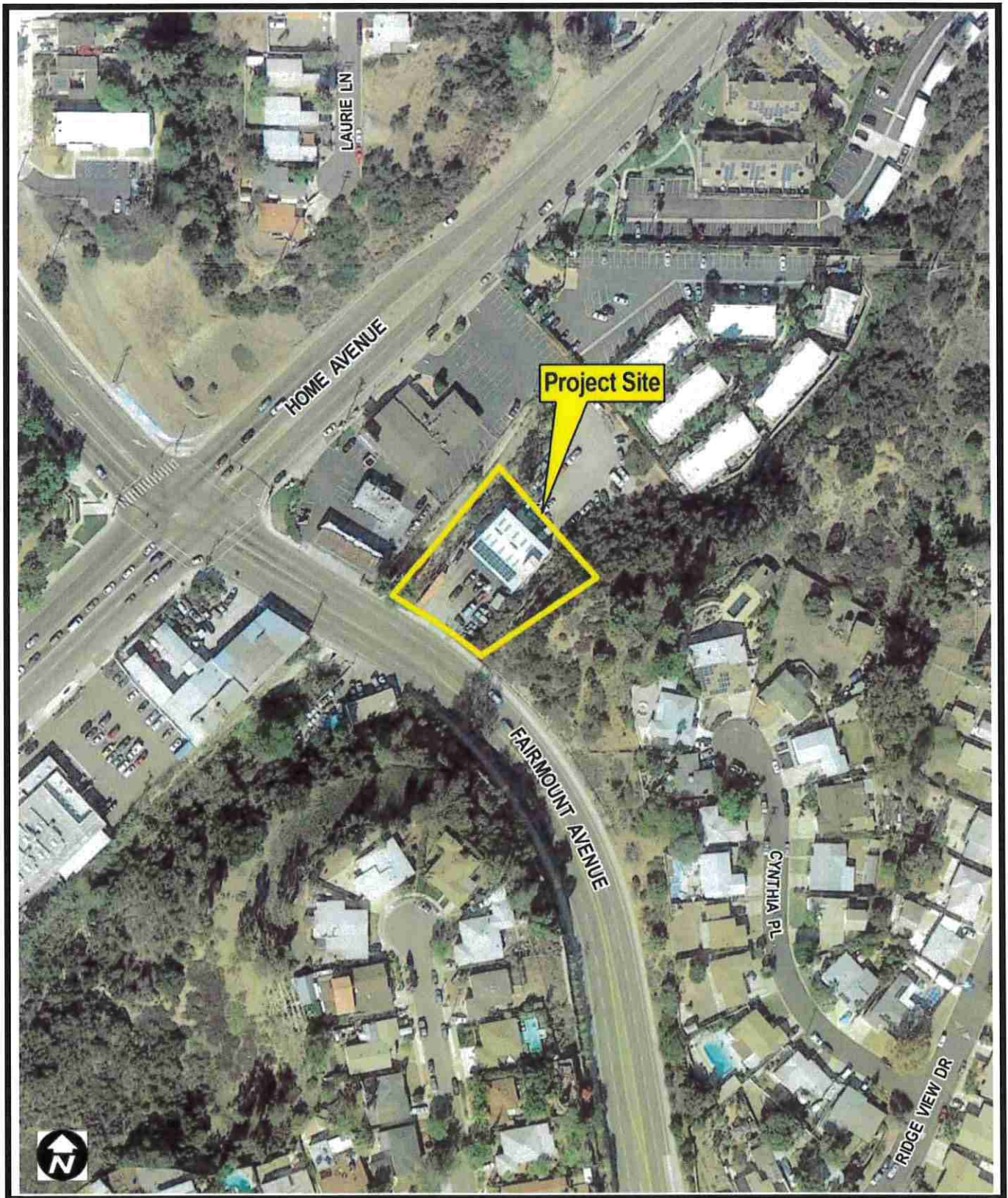
- ☐ Site Specific Report:

XIX. Water Conservation

- ☐ Sunset Magazine, *New Western Garden Book*, Rev. ed. Menlo Park, CA: Sunset Magazine

XX. Water Quality

- ☐ Clean Water Act Section 303(b) list, http://www.swrcb.ca.gov/tmdl/303d_lists.html
- ☐ Site Specific Report:



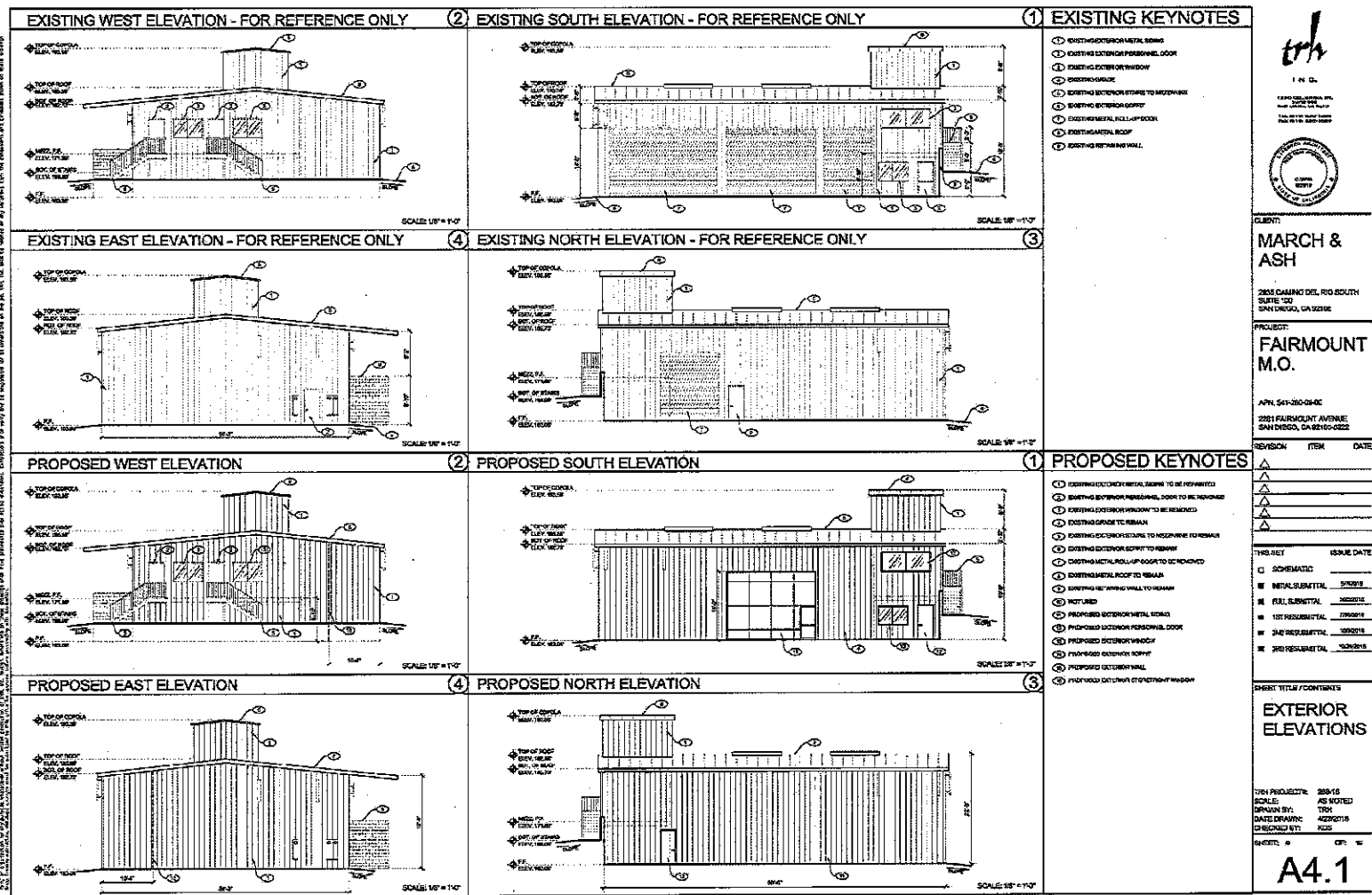
Location Map

2281 Fairmount Avenue MO/ 607352

City of San Diego – Development Services Department

FIGURE

No. 1



Exterior Elevations
2281 Fairmount Avenue MO/ 607352
City of San Diego – Development Services Department

FIGURE
No. 3