



**San Diego County Archaeological Society, Inc.**

Environmental Review Committee

9 June 2007

To: Ms. Marilyn Mirrasoul  
 Development Services Department  
 City of San Diego  
 1222 First Avenue, Mail Station 501  
 San Diego, California 92101

Subject: Draft Program Environmental Impact Report  
 Draft General Plan  
 Project No. 104495

Dear Ms. Mirrasoul:

I have reviewed the historical resources aspects of the subject Draft PEIR on behalf of this committee of the San Diego County Archaeological Society.

Based on the information contained in the documents provided, we have the following comments on Section 3.6. We will not comment on purely editorial items like typographical errors, trusting that the City will have the section proofread again before the document is finalized.

- U-1** 1. Section 3.6.3 includes a list of policies related to historical resources that are included in the General Plan. The nine items listed there do not include a policy to require and ensure curation of archaeological collections resulting from the City's CEQA process. The City has a significant backlog of uncured collections and currently has difficulty identifying which projects generated collections and what the curation status of those collections is. The General Plan, which apparently needs to be modified to address curation, would be a good place to put some emphasis on the overdue resolution of the situation.
- U-2** 2. In several locations in Section 3.6.4, in 2.a on page 3.6-10 and 2.c on page 3.6-13, the expression used is "Prior to issuance of any permits, including but not limited to..." Does "any permits" include ministerial permits?
- U-3** 3. In 2.a on page 3.6-10, the HABS and HAER standards are invoked. To address historic landscapes, the Historic American Landscape Survey, or HALS, should also be cited.
- U-4** 4. In 1.(b) on page 3.6-11 and 1.(b) on page 3.6-14, should digital as well as Xerox copies of photos be submitted?
- U-5** 5. In 1.(b) and 2.(b) on page 3.6-11 and 1.(b) and 2.(b) on page 3.6-14, we suggest that "and other historical society or group" be changed to "and any other appropriate historical societies or groups".

- U-1 The requirement for permanent curation of archaeological artifact collections and associated research materials, including collections held by the City is included in General Plan Policy HP-A.4.
- U-2 The reference is to discretionary permits and does not include ministerial permits. Ministerial permits include, but are not limited to grading, demolition and/or building permits. In addition, the referenced mitigation program has been updated and revised to reflect recent changes and to provide consistency with other historical resource mitigation programs. Please see also response to comment W-2.
- U-3 HABS and HAER Standards would be applied when a project includes a property that is listed on the National Register of Historical Places and an adverse effect has been identified. However, for locally designated properties, any level of HABS and/or HAER Standards can be applied depending on the level of documentation required to reduce potential impacts to historical resources. As such, the Historic American Landscape Survey (HALS) has been added to the list of applicable documentation programs to be implemented when such a resource type is identified on a project.
- U-4 The recommendation for submittal of digital photographs as part of the documentation plan has been added to the referenced section of the Mitigation Monitoring and Reporting Program.
- U-5 The referenced section of the Mitigation Monitoring and Reporting Program has been revised as recommended.


## COMMENTS

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- U-6** 6. In 5 on page 3.6-11, change "following measure should be included" to "following measures are to be included". Presumably this is a requirement and not a recommendation.
- U-7** 7. On pages 3.6-12, 3.6-15 and 3.6-21, there is a standard paragraph for "Night Work". Should this be "Night and Weekend Work"? And in a.(2) in all three cases, it seems "by 9AM the following morning" should be "by 9am the morning of the next business day."
- U-8** 8. On page 3.6-15, in the fourth line of the paragraph beginning "Prior to issuance of any permit", we suggest adding "but are not limited to" between "Sites may include" and "residential and commercial".
- U-9** 9. On pages 3.6-15 and 16, under "Step 1 – Initial Evaluation", it would be appropriate to also explicitly cite Sanborn maps, aerial photographs and historic maps as resources that should be checked in addition to the records search at SCIC.
- U-10** 10. On page 3.6-16, under "Step 2 – Testing", the City needs to state unequivocally that collections from the testing phase are to be curated. This needs to be done regardless of the determination of site significance. Since all sites are considered significant at least until they are tested and proven otherwise, the testing is mitigating the adverse impacts to those sites determined to require no further investigation. Further, those testing collections constitute the only record, other than a report, that will remain for those sites. And professional ethics (see Section V of the Register of Professional Archaeologists' Code of Conduct, at <http://www.rpanct.org/conduct.htm>) require curation as well.
- U-11** 11. The first full paragraph on page 3.6-17 calls for collections to be "permanently curated with an appropriate institution." This is unnecessarily vague. The paragraph should invoke the State of California *Guidelines for the Curation of Archaeological Collections*, dated May 7, 1993, and/or the federal requirements given in 36CFR79. And in the next paragraph on that page, it mentions "curation arrangements at an approved facility." Approved how and by whom?
- U-12** 12. In II.B.1 on page 3.6-18, reference is made to "The qualified Archaeologist". This should probably say "An archaeologist qualified in accordance with \_\_\_\_\_", to make the term clear.
- U-13** 13. On page 3.6-23, in paragraph 2, shouldn't the text read "Notice of Completion or release of the grading bond, as applicable,"?
- U-14** 14. To Section 3.6.5 on page 3.6-23, we would suggest adding a statement that sites that have not been tested are considered significant.

SDCAS appreciates this opportunity to review and comment on this important document.

Sincerely,

  
James W. Royle, Jr., Chairperson  
Environmental Review Committee

cc: SDCAS President  
File

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- U-6** The comment refers to a statement at the beginning of the Treatment Plan portion of the MMRP which was intended as a note to staff to include the project specific Treatment Plan at that point in the MMRP. The Treatment Plan details the measures required by which the resource would be protected before, during and after the construction phase of the project. As such, the MMRP staff reference note has been removed from EIR text.
- U-7** Staff concurs with the recommendation to include weekend work in the referenced sections of all applicable MMRP programs and will insert the recommended language for notification by 9 AM the morning of the next business day as suggested.
- U-8** Staff concurs with the recommendation to insert the language "but are not limited to" in the paragraph as suggested.
- U-9** Staff concurs with the recommendation to include Sanborn Maps, aerial photographs and historic maps as resources to be used during the Step 1 – Initial Evaluation Process.
- U-10** The following language has been inserted into Step 2 – *Testing and will be included in the update for the Historical Resources Guidelines: Resources found to be non-significant as a result of a survey and/or assessment will require no further work beyond documentation of the resources on the appropriate DPR site forms and inclusion of results in the survey and/or assessment report. The City of San Diego will consider the appropriate treatment of materials recovered from non-significant sites as part of the update to the Historical Resources Guidelines.*
- U-11** The referenced paragraph has been revised to include a statement requiring conformance with the City's Historical Resources Guidelines (April 2001), the State of California Office of Historic Preservation's Guidelines for the Curation of Archaeological Collections (1993), and federal regulations, when applicable. In addition, the second referenced paragraph has been revised and the following sentence inserted to clarify the curation process after completion of the archaeological program: *Arrangements for long-*

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*term curation must be established between the applicant/property owner and the consultant prior to the initiation of the field reconnaissance, and must be included in the archaeological survey, testing and/or data recovery report submitted to the City for review and approval.*

- U-12 Please refer to Section I.B.1 of the MMRP on Page 3.6-17. All individuals involved in the monitoring program must be identified prior to permit issuance. This includes verification by City staff that each individual is qualified to participate in the archaeological program as defined in the Historical Resources Guidelines. Individuals not meeting the criteria set forth in the Guidelines are not allowed to participate in the monitoring program. Therefore, revisions to Section II.B.1 of the MMRP are not necessary.
- U-13 The referenced section of the MMRP has been revised as follows: The RE shall, in no case, issue the Notice of Completion and/or release the performance bond for grading until receiving a copy of the approved Final Monitoring Report from the City's Mitigation Monitoring and Coordination section which includes the Acceptance Verification from the curation institution.
- U-14 Staff concurs with the statement that sites not tested are considered significant. As such, the following language has been added to the second paragraph on Page 3.6-9 at the end of the first sentence: *It should be noted, that recorded sites which have not been tested are considered significant and would require further evaluation prior to project approval.*

## COMMENTS

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CARMEN LUCAS

PO Box 111

San Ysidro, California

15 June 2007

Courtney Ann Coyle  
1609 Soledad Ave  
La Jolla, California 92037

Re: Community Plan Area/City Council Districts: All Project No. 104495,  
SCH 50 2006091032 Draft Program Environmental Impact Report (PEIR)

Dear Courtney:

V-1 I have looked at the referenced Program Environmental Impact Report. The one area I would like to comment on is the Biological Resources. Why don't the Planners/Managers or whoever it is that lays out such guidelines bring Biological and Pre-History Archeology together?

V-2 I would like to see the day come that will remove the word "Mitigation" from all planning documents and just require developers to design the construction of projects to avoid impacts to wildlife and Pre-History sites. The City should require not only the protection of all wetlands and vernal pool but also require the prevention of disturbances to Pre-History Human Remains as well.

V-3 Why can not the City require that a special funding account be established by all developers that they be required to place 1% of the total cost of the planned development cost into a Preservation of Pre-History Account. That money should only be drawn down when Pre-History Human Remains have been inadvertently discovered after construction has begun and only as a last resort the Human Remains have to be removed if the project can not be redesigned. The money that would be drawn down from the account would be put to use to do Honest Archeology to record the pre-history site and remove the human remains in a respectful manner that meets all the spiritual needs that the Most Likely Descendant may require.

*Copy into*

V-1 Although biology and archaeology are two distinct disciplines requiring specialized expertise when evaluating potential impacts, the relationship between the two is generally addressed when analyzing existing site conditions as part of the environmental setting. When appropriate, archaeobotany would be included in the analysis and taken into consideration when conducting background research. If a site is determined to be significant, specific research questions would be addressed in the research design and data recovery program relating to the flora and fauna onsite as well as the ethnohistoric uses of those resources.

V-2 The SB 18 process is intended to provide the Native American community with the earliest possible opportunity to address potential impacts to archaeological resources for community plan amendments and open space issues. With SB18, project applicants and Native American representatives can work together to identify areas of Native American concern prior to project submittal with a design that avoids and/or preserves potentially sensitive resources. For projects that are not subject to SB 18, CEQA and the Public Resources Code provide provisions for the treatment and disposition of human remains encountered during construction related activities. These provisions have been incorporated into the City's Historical Resources Regulations, Guidelines and Mitigation, Monitoring and Reporting Programs. In addition, environmental staff procedures have been improved to identify areas of high sensitivity earlier in the Initial Study process which would provide the opportunity for avoidance, preservation and/or redesign.

V-3 A public agency does not have unlimited authority to impose mitigation measures or require new fees on a project; rather, an agency may exercise only those express or implied powers provided by law. In addition, the U.S. Constitution limits an agency's authority to impose conditions to those situations where there is a clear "nexus" between the impact and the mitigation measure and/or fee being required. Mitigation proposed for a project must relate directly to the impacts caused by the project

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and therefore cannot be required for all development projects. There must be “rough proportionality” between the environmental problems caused by a development project and the mitigation measure and/or fee imposed on the project applicant. Furthermore, according to California Government Code Section(s) 66016-66018.5, a legislative action is required in order for the City to levy new fees.

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- V-4 Under the Historical Resources section, I would like to see some language that the City acknowledges that the Bulldozers of Years of Development in the past 100 years of San Diego's growth has destroyed untold number of Pre-History and Human Remains that are the roots to San Diego's history. The Archeological Resource Business's have learned over the past thirty years of digging in San Diego County that Rich Midden Soil has a high potential for encountering human remains during construction development activities. Therefore in an honest effort for modern society to except and respect a moral obligation that will respect and honor the Pre-History Human Remains and the rich history of San Diego the General Plan will require that the use of Canine Forensics that have been trained in the detection of locating Pre-History Human Remains when the Cultural Management Company's know from pedestrians surveys that the development project will impact midden soil. In the event that the Canine Forensics dogs alert to the location of Human Remains, the Remains will not be removed but the project will be redesigned to avoid those remains and the accompanying archaeological resources. The City's General Plan should require rather than "include Native American Monitors" during all Pre-History pedestrians surveys and the all Cultural Management fieldwork.
- V-5
- V-6

As always, I hope that the above is helpful and thank you for all you do.

Sincerely,

  
 CARMEN LUCAS  
 Kwaaymii, Laguna Band of Indians  
 Laguna Mountain, California

Copy to:

Larry Myers, Native American Heritage Commission

- V-4 The City acknowledges that development over the past 100 years has resulted in the destruction of numerous historic and prehistoric archaeological sites in San Diego. However, the General Plan is not the vehicle for expressing views or opinions on past activities. The General Plan is intended to provide policy statements and goals for improving the planning process on a citywide basis. The California Environmental Quality Act (CEQA) has been in place since 1970 which provides the mechanism for a more thorough analysis of potential impacts, and includes the 1989 requirement that public agencies adopt specific measures in accordance with Public Resources Code Section 21081.6 to mitigate or avoid significant effects on the environment. In addition, the City's Historical Resources Regulation and Guidelines provides additional direction for the treatment of archaeological resources in accordance with all applicable state and federal laws.
- V-5 The City does not object to using non-invasive methods as a component of the initial archaeological investigation but we cannot require the use of one particular methodology. While non-invasive methods are used as a tool for locating potential subsurface components of an archaeological site, they cannot be relied upon to determine the type of resource identified and the significance of the find without further investigation. The subsurface investigation of anomalies identified with the non-invasive methodology may include a small post-hole or shovel test pit and would be consistent with standard archaeological practices. Page 21 of the City's Historical Resources Guidelines further states that consultants are encouraged to employ innovative survey techniques when conducting enhanced reconnaissance including but not limited to, remote sensing, ground penetrating radar and other soil resistivity techniques as determined on a case-by-case basis.
- V-6 The proposed General Plan has been revised as recommended.