THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: May 13, 2010 **REPORT NO. PC-10-038**

ATTENTION: **Planning Commission, Agenda of May 20, 2010**

SUBJECT: PALM AVENUE CAR WASH - PROJECT NO. 155821 (MMRP). PROCESS 3.

LOCATION: 1440 Palm Avenue

OWNERS/ APPLICANTS: PAUL D. MAGNOTTO, MARNIE A. MAGNOTTO, MARK LEWIS KRAVIS (Owners/Permittees)

SUMMARY

Issue - Should the Planning Commission approve or deny an appeal of the Hearing Officer's decision approving the construction and operation of a car wash facility located at 1440 Palm Avenue within the Otay Mesa-Nestor community planning area?

Staff Recommendations:

1. CERTIFY Mitigated Negative Declaration No. 155821; and

2. DENY the Appeal and APPROVE Coastal Development Permit No. 554575; and

3. DENY the Appeal and APPROVE Site Development Permit No. 730066.

Community Planning Group Recommendation - On July 8, 2009, the Otay Mesa-Nestor Community Planning Group voted 7-6-0 to recommend approval of the proposed project with a condition for a red zone curb along 13th Street (Attachment 9).

Environmental Review - A Mitigated Negative Declaration No. 155821 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines, and identified the potential for adverse impacts related to Noise, Historical Resources (Archaeology) and Land Use (MSCP/MHPA). Implementation of a Mitigation, Monitoring, and Reporting Program (MMRP) is included as a condition of the project.

Fiscal Impact Statement: None with this action. All costs associated with the processing of this project are paid by the applicant.

Code Enforcement Impact: None with this action.

Housing Impact Statement: None with this action.

BACKGROUND

The vacant 0.94 acre L-shaped project site is located at 1440 Palm Avenue in the CC-4-2 (Commercial-Community) zone, within the Coastal (appealable), Coastal Height Limit, FEMA Flood Plain (100-year) and Parking Impact Overlay zones, within the Otay Mesa-Nestor Community Plan area, along the boundary between the City of San Diego and the City of Imperial Beach (Attachment 1). The Otay Mesa - Nestor Community Plan designates the site for Community-Commercial land use (Attachment 2). Land uses to the west, south and north of the site consist of mixed residential and commercial development, and the project site lies adjacent to the Multi-Habitat Planning Area (MHPA) along its eastern property line. Sloping down easterly from 13th Street the site includes a portion of the site mapped within the 100-year floodplain designation. The floodplain area and the MHPA are considered environmentally sensitive lands under the San Diego Municipal Code.

A Process 3 Coastal Development Permit is required for the proposed development because it is located in the Coastal Overlay zone per San Diego Municipal Code (SDMC) Section 126.0702; additionally, a Site Development Permit is required due to the presence of a 100-year floodplain on site, which meets the definition of "environmentally sensitive lands" per SDMC Section 143.01110. On March 24, 2010, the Hearing Officer approved the project as recommended by staff. An appeal of the Hearing Officer's decision to approve the project was filed on April 5, 2010, by Mr. Timothy Carmel (Attachment 11). Public comment letters have been received both in opposition to and in support of the project.

DISCUSSION

Project Description:

The project is requesting a Coastal Development Permit and Site Development Permit (ESL) to allow construction and operation of a two-story 8,928-square-foot car wash facility with convenience store and office uses to be developed on a vacant 0.94 -acre site. The project scope includes a 24 space parking lot (with 2 accessible parking spaces), landscaping, signage and a combination of fences and retaining walls along the eastern and northern property lines. Additionally, improvements to the public rights-of-way along Palm Avenue and 13th Street are proposed to include driveways, sidewalk and landscaping. The boundary between the City of San Diego and the City of Imperial Beach is the easterly right-of-way line of 13th Street and along the northerly right-of-way line of Palm Avenue. The City of Imperial Beach has permit jurisdiction over the 13th Street right-of-way and the California Department of Transportation (Caltrans) has permit jurisdiction over the Palm Avenue/ State Route 74 (SR-75) right-of-way. As such, the applicant will need to obtain permits from the City of Imperial Beach as necessary for any work in the 13th Street right-of-way, and from Caltrans as necessary for any work in the public right-of-way on Palm Avenue/SR-75.

Community Plan Analysis:

The site is located within an area characterized by strip commercial development along the Palm Avenue commercial corridor, mixed density residential development in the surrounding neighborhoods, and lies adjacent to the MHPA area and Salt Ponds. The proposed car wash, convenience store and office uses are allowed by right under the CC-4-2 (Commercial-Community) zone development regulations, which are intended to allow for heavy commercial uses including high intensity, strip commercial characteristics and residential uses. The Otay Mesa-Nestor Community Plan and Local Coastal Program (LCP) designate the site for Community-Commercial land use and the proposed project is consistent with this designation. The project will support the Otay Mesa-Nestor Community Plan/LCP recommendations and guidelines for commercial development by ensuring the building street facades have three-dimensional relief to provide visual interest at the street level, and by incorporating pedestrian circulation and bicycle racks on site to facilitate residents commuting from nearby residential areas to the convenience store. To ensure compatibility with the adjacent residential and open space areas, the project provides setbacks and landscaped buffers, and will utilize earth-tone colored, textured concrete blocks for the planted crib wall adjacent to the MHPA. The Otay Mesa-Nestor Community Plan/LCP identifies view opportunities to the Otay River Valley, the Western Salt Company's building, salt ponds and salt stacks, and the downtown San Diego skyline across San Diego Bay. The length of 13th Street (which fronts the project site on the west) and the terminus of Georgia Street (across Palm Avenue to the southeast of the project site) are both identified as view corridors to support these view opportunities in the Otay Mesa-Nestor Community Plan (Attachment 10). The project will be developed entirely within the property boundaries of the site and will not obstruct, degrade or diminish these scenic view opportunities from adjacent public right-of-way areas. The car wash facility, with the associated site improvements, complies with the development regulations, standards, and policies in effect for the project site per the Otay Mesa-Nestor Community Plan and all other City regulations, policies, guidelines, design standards and adopted land use plans applicable to this site and no deviations are required.

Project Related Issues:

Project Design:

The proposed development will be a two-story 8,928-square-foot car wash with convenience store on the ground floor, and accessory office space on the second floor. Architectural design and construction techniques for the building include the use of a tan colored stucco coated exterior finish with standing seam metal roofing (Attachment 5). The proposed development will provide twenty four (24) automobile parking spaces (including 1 standard accessible space and 1 van accessible space), 2 motorcycle spaces, and 2 bicycle spaces with racks. Primary access to the site will be provided through an access driveway on 13th Street, which is shared through a mutual access easement with the existing Auto Zone development on the adjacent parcel; egress will be provided through a driveway off Palm Avenue (SR-75). The project proposes to grade the sloping site to make it level by importing 4,674 cubic yards of fill at a maximum fill depth of approximately 10 feet along the eastern property line where it will be retained by a plant-able crib wall structure utilizing native vegetation species. An existing retaining wall along the northern property line will be demolished and replaced with a new retaining wall topped with a 6 foot fence. To accommodate site

drainage and storm water treatment the project will utilize a combination of filtered roof drains and surface flows to vegetated swales.

Environmentally Sensitive Lands:

The project site includes a small area along its eastern boundary which is mapped as being within the 100-year FEMA floodplain designation, which meets the definition of "environmentally sensitive lands" per SDMC Section 143.01110. As the project proposes development in Zone A of a Special Flood Hazard Area (SFHA), and because there are no published base flood elevations for this reach, the applicant will be required to develop those elevations per the methodology set forth in Managing Floodplain Development In Approximate Zone A Areas, A Guide For Obtaining And Developing Base (100-Year) Flood Elevations, April 1995, Federal Emergency Management Agency (FEMA) prior to issuance of a grading permit. As a condition of the development permit, once the base flood elevations have been determined and approved by the City Engineer, all structures built within the SFHA must have the lowest floor elevated 2 feet above the base flood elevation at that location. Though the site does not yet have a FEMA certified base flood elevation, adjacent study areas to the east of the subject property (Zone AE) lists a flood elevation of 11 feet MSL, and the study area to the northwest (Zone AE), lists a flood elevation of 6 feet MSL. It is estimated that the project site base flood elevation is approximately 10 feet MSL, which is below the finish floor elevation of the proposed building (FF=18.5 feet MSL), and meets the criteria for finished floor elevations to be a minimum of 2 feet above the flood elevation.

Environmental Analysis:

A Mitigated Negative Declaration (MND) No. 155821 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines, which identified the potential for adverse impacts related to Noise, Historical Resources (Archaeology) and Land Use (MSCP/MHPA). Implementation of a Mitigation, Monitoring, and Reporting Program (MMRP) is included as a condition of the project and is detailed in Section V of the Mitigated Negative Declaration No. 155821. Due to the site's adjacency to the MHPA, the project is required to utilize mitigation measures in the form of Land Use Adjacency Guidelines in order to avoid significant environmental impacts to the MHPA. Mitigation measures include shielding of the MHPA area from light and noise through fence and wall construction along the easterly property boundary, and mechanical equipment utilized within the project is subject to noise level limitations. Additionally, the carwash facility's hours of operation are limited to 7AM – 10PM to avoid night time noise impacts to the MHPA. Drainage has been diverted away from the MHPA area, and the retaining/crib wall lying adjacent to the MHPA will be planted with appropriate native plant species.

Community Planning Group Recommendation:

On July 8, 2009, the Otay Mesa-Nestor Community Planning Group voted 7-6-0 to recommend approval of the proposed project with a condition for a red zone curb along 13th Street. This recommendation will need to be pursued through the City of Imperial Beach as the 13th Street right-of-way is within the City of Imperial Beach boundaries.

Appeal of Hearing Officer Decision to Approve SDP:

On March 24, 2010, the Hearing Officer approved Coastal Development Permit No. 554575 and Site Development Permit No. 730066. An appeal of the Hearing Officer's decision to approve the project was filed on April 5, 2010, by Mr. Timothy Carmel (Attachment 11). Issues cited in the appeal concern the Otay Mesa-Nestor Community Planning Group's review of the project, and adequacy of the project environmental document, Mitigated Negative Declaration (MND) No. 155821, relative to the California Environmental Quality Act (CEQA) including noise, cultural resources, traffic/circulation, air quality, green house gas, water quality/hydrology and project aesthetics.

Appellant Concern: Community Planning Group Recommendation Prior to Review of MND 155821
Staff Response: On July 8, 2009, the Otay Mesa-Nestor Community Planning Group voted 7-6-0 to recommend approval of the proposed project. The draft MND 155821 was circulated February 12, 2010, and the document was finalized March 9, 2010. The City Attorney's office has previously reviewed the issue of whether a community planning group is legally required to review a project's CEQA analysis prior to making a recommendation to a Decisionmaker and has determined that there is no legal requirement to do so (Attachment 12).

Appellant Concern: Noise Analysis Relative to Adjacent Residential Land Uses
Staff Response: As analyzed in MND No. 155821, a site specific noise study was conducted for this project (*"Acoustical Analysis and Design for the Proposed Palm Avenue Car Wash at 1440 Palm Avenue in San Diego, California"*, Dr. Penzes & Associates, June 18, 2009). The report concluded that the MHPA area to the west (Salt Pond Habitat) could potentially be impacted by project noise levels above 60 dBA, and recommended mitigation in the form of a 4-foot high noise wall to be constructed along the south easterly property line for a length of 120-feet, to ensure noise levels of the car wash blowers will be below 60 dBA. The sound wall is included in the project design. The study also identified that even with the sound wall mitigation, the noise generated by the proposed Dryer/Blower in the evening may be above the night time noise limit of the adjacent Salt Pond Habitat. To address this potential impact, the car wash will be limited to operations between the hours of 7 AM and 10 PM. No noise impacts to the multi-family development along the northern property line were identified.

Appellant Concern: Traffic/Circulation Analysis of 13th Street Access
Staff Response: The "Purpose and Main Features" portion of the Initial Study states, "Access to the convenience store and car wash would be taken from Palm Avenue". This statement should have also acknowledged that access to the site will also be taken from 13th Street, in addition to Palm Avenue. This typographical error was corrected in the final MND 155821, noted in the document's response to public comments, and does not materially affect the findings of the Initial Study because the traffic study for the project correctly identified and analyzed the project access points. As such, the conclusions of the Initial Study with respect to Traffic/Circulation are valid. Regarding the capacity of 13th Street, the roadway segment of 13th Street between Palm Avenue and the project driveway currently operates at LOS A without the project. This roadway segment would operate at LOS B with 1,933 project trips added; therefore, this is neither a capacity nor a safety issue.

Appellant Concern: Cultural Resources/Archaeology
Staff Response: The archaeological survey and testing program for the project identified a heavily disturbed, non-significant component of SDI-4360 within the southern portion of the property boundaries which does not meet the definition of a historical or unique archaeological resource pursuant to State CEQA Statute 21083.2 and Guideline Section 15064.5. Therefore, the MND has adequately addressed the resource and the effect on it from the project and does not need to be considered further in the CEQA process [Section 15064.5(c)(4)]. Additionally, CEQA provides the lead agency with the provision for addressing archaeological sites accidentally discovered during construction related activities [Section 21083.2(i)]. For this project, although the archaeological site was determined not to be significant, the consulting archaeologist made a recommendation for monitoring which is consistent with the City's Historical Resources Guidelines in order to address any accidental discoveries associated with the site during any construction related activities. An additional preconstruction survey is not required prior to implementation of the monitoring component of the project.

Appellant Concern: Greenhouse Gases
Staff Response: The City of San Diego does not currently have adopted thresholds of significance for Greenhouse Gases (GHG) emissions as required by the CEQA Guidelines that went into effect on March 18, 2010. As an interim standard, the California Air Pollution Control Officers Association (CAPCOA) report "Model Policies for Greenhouse Gases in General Plans" dated January 2008 is being applied to determine whether a GHG analysis will be required. The CAPCOA report references the 900 metric ton guideline as a conservative threshold for requiring further analysis and mitigation. This emission level is based on the amount of vehicle trips, the typical energy and water use associated with projects, and other factors. CAPCOA identifies project types that are estimated to emit approximately 900 metric tons of GHG's. This 900 metric ton threshold is roughly equivalent to 35,000 square feet of commercial land use. The project proposes 8,928 square feet of commercial land use, which is well below the 35,000 square foot threshold. Therefore, for the above reasons a GHG analysis was not required. In addition to the screening criteria being used by the City of San Diego, the project is using green technology to further reduce GHG emission levels. As part of the project, the water from the car wash system is being recycled and used for watering the landscape, resulting in no runoff of solvents or soaps into the adjacent MHPA or the City's Storm drain system. Energy efficient windows are being used which meet the state building energy standards. The car wash dryers use a variable efficiency drive which uses less energy than previous generations.

Appellant Concern: Air Quality
Staff Response: As noted in the Response to Comments section of MND No. 155821, the City of San Diego's CEQA Significance Thresholds identify specific sensitive receptors and residential use is not considered to be a sensitive receptor. The project was determined to not have a potential for significant air quality impacts and an Air Quality Analysis was not completed.

Appellant Concern: Water Quality/Hydrology
Staff Response: As noted in the Response to Comments section of MND No. 155821, a Water Quality Technical Report was prepared for the project in accordance with the City's Stormwater standards. City Engineering staff reviewed the report and determined that the project's proposal to use a self-contained recycled water system which uses purified rinse water to irrigate landscaping is an adequate Best Management Practice (BMP) to address the potential of project generated

pollutants. There will be no run-off of such materials to the MHPA area. In addition, to accommodate site drainage and storm water treatment the project will utilize a combination of filtered roof drains and surface flows directed away from the MHPA area toward vegetated swales located at the south end of the site. As discussed previously, the project is located in Zone A of a Special Flood Hazard Area (SFHA) where there are no published base flood elevations for this site. The applicant will be required to develop those elevations and obtain certification from FEMA prior to issuance of a grading permit, and all structures built within the SFHA must have the lowest floor elevated 2 feet above the base flood elevation at that location. The project's Hydrology and Water Quality studies did not identify any adverse impacts to the adjacent MHPA area.

Appellant Concern: Project Aesthetics
Staff Response: The proposed use of the site as a car wash facility with convenience store and office uses complies with the development regulations, standards, and policies in effect for the project site in accordance with the CC-4-2 zone, the Otay Mesa-Nestor Community Plan, and all other City regulations, policies, guidelines, design standards and adopted land use plans applicable to this site, and no deviations are required.

CONCLUSION

Staff has reviewed the proposed Coastal Development Permit and Site Development Permit application and has determined the project is in conformance with the applicable sections of the San Diego Municipal Code. Staff has determined the required findings can be supported as the project meets the applicable San Diego Municipal Code requirements regulating commercial, coastal and environmentally sensitive lands development, and staff recommends approval of the project as proposed.

ALTERNATIVES

1. Deny the appeal and Approve Coastal Development Permit No. 554575 and Site Development Permit No. 730066, with modifications.

2. Uphold the appeal and Deny Coastal Development Permit No. 554575 and Site Development Permit No. 730066, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

Mike Westlake
Program Manager
Development Services Department

Patricia J. FitzGerald
Development Project Manager
Development Services Department

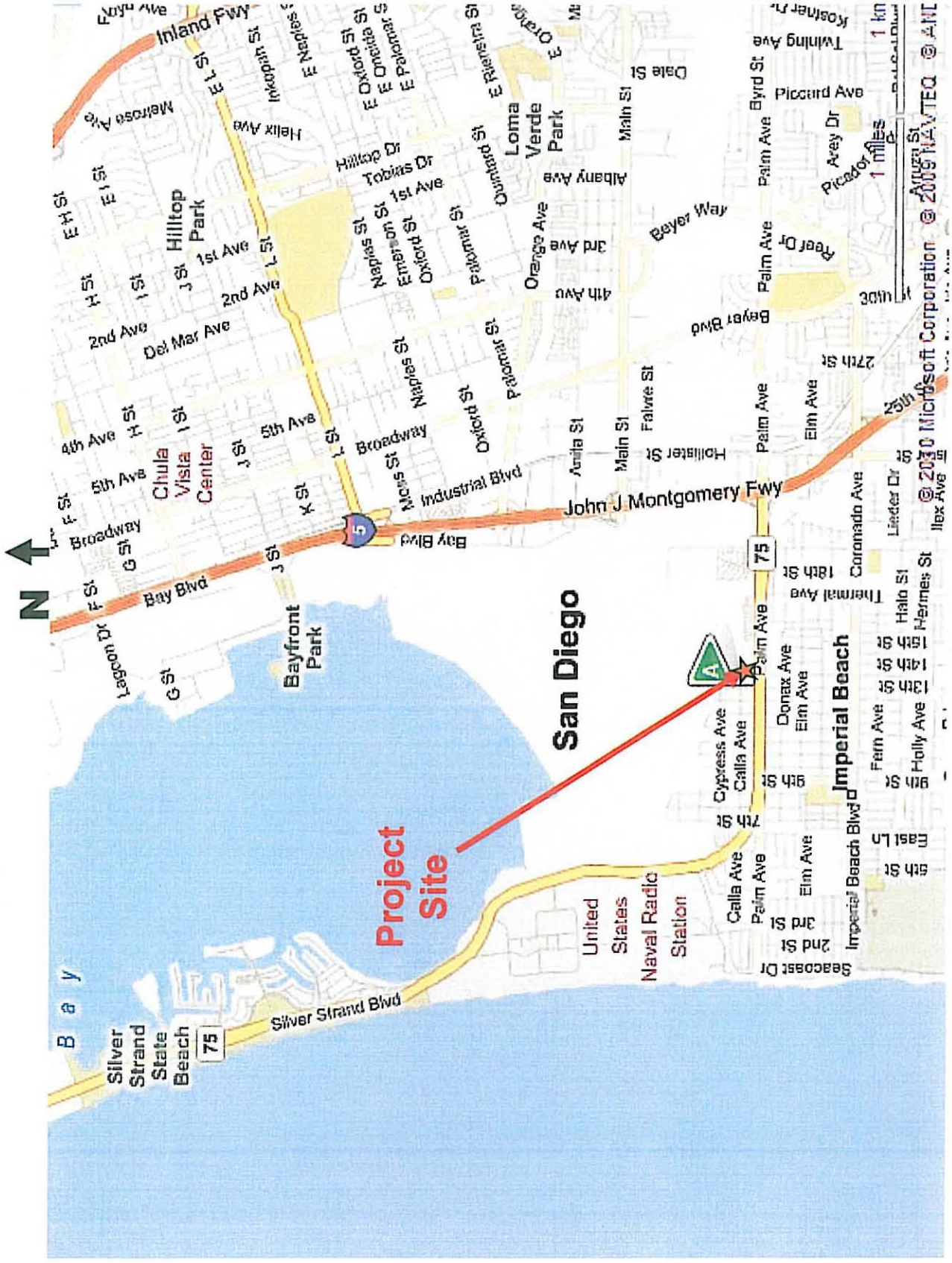
WESTLAKE/PF

Attachments:

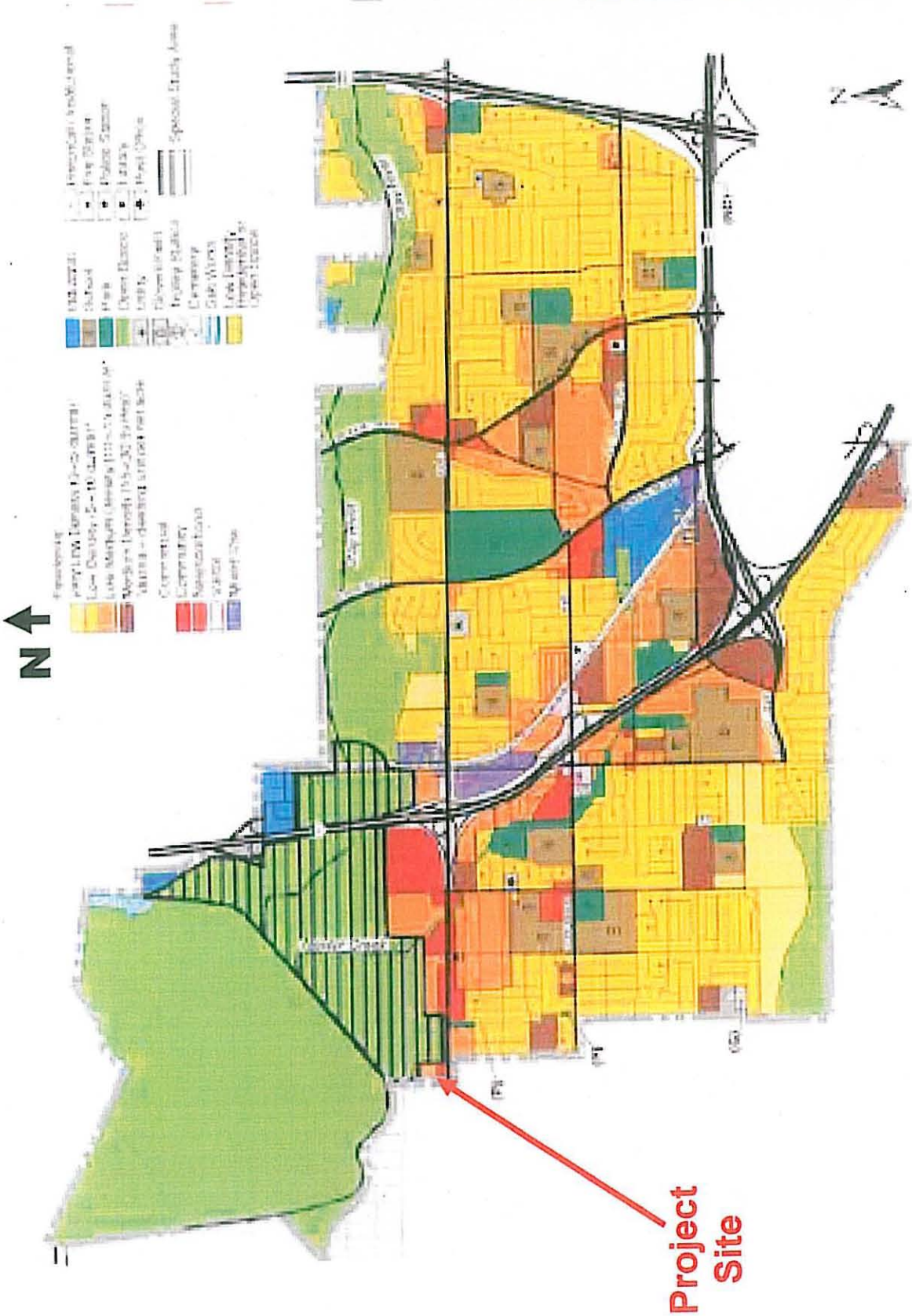
1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Plan(s)
6. Draft Permit with Conditions
7. Draft Resolution with Findings
8. Ownership Disclosure Statement
9. Community Planning Group Recommendation (Otay Mesa-Nestor)
10. Otay Mesa-Nestor View Corridors
11. Planning Commission Appeal
12. City Attorney Memorandum

Attachment 1
Project Location Map

Attachment 2
Project Location Map



Attachment 3
Community Plan – Land Use Map



PROJECT DATA SHEET

PROJECT NAME:	Palm Avenue Car Wash
PROJECT DESCRIPTION:	Construction/operation of an 8,928-square-foot car wash with convenience store and office on a 0.94 -acre site
COMMUNITY PLAN AREA:	Otay Mesa- Nestor
DISCRETIONARY ACTIONS:	Site Development Permit
COMMUNITY PLAN LAND USE DESIGNATION:	Community Commercial

ZONING INFORMATION:

ZONE: CC-4-2 zone (overlays: Coastal (appealable), Coastal Height Limit, FEMA Flood Plain (100-year), Parking Impact)

HEIGHT LIMIT: 30 feet (as measured under Prop D); 60 feet for CC-4-2 zone

LOT SIZE: 5,000 square-foot minimum

FLOOR AREA RATIO: 2.0 maximum

FRONT SETBACK: 0 feet (maximum 100)

SIDE SETBACK: 10 feet min. (optional 0 feet per SDMC 131.0543(b))

STREETSIDE SETBACK: 0 feet

REAR SETBACK: 10 feet (optional 0 feet per SDMC 131.0543(b))

PARKING: 22 parking spaces required & 24 provided

ADJACENT PROPERTIES:	**LAND USE DESIGNATION & ZONE**	**EXISTING LAND USE**
NORTH:	RM-1-1 & RM-2-5	Multifamily residential
SOUTH:	City of Imperial Beach	Commercial; residential off 13th Street
EAST:	CC-4-5	Open Space/MHPA
WEST:	CC-4-2 per City of San Diego; City of Imperial Beach	Commercial/Multifamily residential

DEVIATIONS OR VARIANCES REQUESTED:	None
COMMUNITY PLANNING GROUP RECOMMENDATION:	On July 8, 2009, the Otay Mesa-Nestor Community Planning Group voted 7-6-0 to recommend approval of the proposed project with a condition for a red zone curb along 13th Street.

ATTACHMENT 5

E3/05 Elevation North
SCALE: 1/8" = 1'-0"

E4/05 Elevation South
SCALE: 1/8" = 1'-0"

E1 Elevation West

GENERAL NOTES

1. APPROVAL OF THESE PLANS BY THE CITY ENGINEER DOES NOT AUTHORIZE ANY WORK TO BE PERFORMED UNTIL *A PERMIT/ *A NOTICE TO PROCEED HAS BEEN ISSUED.

2. THE APPROVAL OF THIS PLAN OR ISSUANCE OF A PERMIT BY THE CITY OF SAN DIEGO DOES NOT AUTHORIZE THE SUBDIVIDER AND OWNER TO VIOLATE ANY FEDERAL, STATE OR CITY LAWS, ORDINANCES, REGULATIONS, OR POLICIES, INCLUDING, BUT NOT LIMITED TO, THE FEDERAL ENDANGERED SPECIES ACT OF 1973 AND AMENDMENTS THERETO (16 USC SECTION 1531 ET.SEQ.)

3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR SURVEY MONUMENTS AND/OR VERTICAL CONTROL BENCHMARKS WHICH ARE DISTURBED OR DESTROYED BY CONSTRUCTION. A LAND SURVEYOR MUST FIELD LOCATE, REFERENCE, AND/OR PRESERVE ALL HISTORICAL OR CONTROLLING MONUMENTS PRIOR TO ANY EARTHWORK. IF DESTROYED, A LAND SURVEYOR SHALL REPLACE SUCH MONUMENTS WITH APPROPRIATE MONUMENTS. A CORNER RECORD OR RECORD OF SURVEY, AS APPROPRIATE, SHALL BE FILED AS REQUIRED BY THE PROFESSIONAL LAND SURVEYORS ACT. IF ANY VERTICAL CONTROL IS TO BE DISTURBED OR DESTROYED, THE CITY OF SAN DIEGO FIELD SURVEY SECTION MUST BE NOTIFIED, IN WRITING, AT LEAST 3 DAYS PRIOR TO THE CONSTRUCTION. THE CONTRACTOR WILL BE RESPONSIBLE FOR THE COST OF REPLACING ANY VERTICAL CONTROL BENCHMARKS DESTROYED BY THE CONSTRUCTION.

4. IMPORTANT NOTICE! SECTION 4216 OF THE GOVERNMENT CODE REQUIRES A DIG ALERT IDENTIFICATION NUMBER BE ISSUED BEFORE A "PERMIT TO EXCAVATE" WILL BE VALID. FOR YOUR DIG ALERT I.D. NUMBER, CALL UNDERGROUND SERVICE ALERT, TOLL FREE 1-800-422-4133, TWO DAYS BEFORE YOU DIG.

5. CONTRACTOR SHALL IMPLEMENT AN EROSION AND SEDIMENT CONTROL PROGRAM DURING THE PROJECT GRADING AND/OR CONSTRUCTION ACTIVITIES. THE PROGRAM SHALL MEET ALL APPLICABLE REQUIREMENTS OF THE STATE WATER RESOURCE CONTROL BOARD AND THE CITY OF SAN DIEGO MUNICIPAL CODE AND STORM WATER STANDARDS MANUAL.

6. "PUBLIC IMPROVEMENT SUBJECT TO DESUETUDE OR DAMAGE." IF REPAIR OR REPLACEMENT OF SUCH PUBLIC IMPROVEMENTS IS REQUIRED, THE OWNER SHALL OBTAIN THE REQUIRED PERMITS FOR WORK IN THE PUBLIC RIGHT-OF-WAY, SATISFACTORY TO THE PERMIT- ISSUING AUTHORITY.

7. ALL EXISTING AND/OR PROPOSED PUBLIC UTILITY SYSTEM AND SERVICE FACILITIES SHALL BE INSTALLED UNDERGROUND IN ACCORDANCE WITH SECTION 144.0240 OF THE MUNICIPAL CODE.

8. PRIOR TO ANY DISTURBANCE TO THE SITE, EXCLUDING UTILITY MARK-OUTS AND SURVEYING, THE CONTRACTOR SHALL MAKE ARRANGEMENTS FOR A PRE-CONSTRUCTION MEETING WITH THE CITY OF SAN DIEGO FIELD ENGINEERING DIVISION (858) 627-3200.

9. DEVIATIONS FROM THESE SIGNED PLANS WILL NOT BE ALLOWED UNLESS A CONSTRUCTION CHANGE IS APPROVED BY THE CITY ENGINEER OR THE CHANGE IS REQUIRED BY THE CITY INSPECTOR.

10. AS-BUILT DRAWINGS MUST BE SUBMITTED TO THE RESIDENT ENGINEER PRIOR TO ACCEPTANCE OF THIS PROJECT BY THE CITY OF SAN DIEGO.

11. AN AS-GRADED GEOTECHNICAL REPORT SHALL BE SUBMITTED TO BOOTH 32 ON THE THIRD FLOOR OF DEVELOPMENT SERVICES WITHIN 15 CALENDAR DAYS OF COMPLETION OF GRADING. AN ADDITIONAL SET SHALL BE PROVIDED TO THE FIELD INSPECTION DIVISION.

12. THE AREA WHICH IS DEFINED AS A NON GRADING AREA AND WHICH IS NOT TO BE DISTURBED SHALL BE STAKED PRIOR TO START OF THE WORK. THE PERMIT APPLICANT AND ALL OF THEIR REPRESENTATIVES OR CONTRACTORS SHALL COMPLY WITH THE REQUIREMENTS FOR PROTECTION OF THIS AREA AS REQUIRED BY ANY APPLICABLE AGENCY. ISSUANCE OF THE CITY'S GRADING PERMIT SHALL NOT RELIEVE THE APPLICANT OR ANY OF THEIR REPRESENTATIVES OR CONTRACTORS FROM COMPLYING WITH ANY STATE OR FEDERAL REQUIREMENTS BY AGENCIES INCLUDING BUT NOT LIMITED TO CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, CALIFORNIA DEPARTMENT OF FISH AND GAME. COMPLIANCE MAY INCLUDE OBTAINING PERMITS, OTHER AUTHORIZATIONS, OR COMPLIANCE WITH MANDATES BY ANY APPLICABLE STATE OR FEDERAL AGENCY.

13. CONTRACTOR SHALL REMOVE AND REPLACE ALL UTILITY BOXES SERVING AS HANDHOLES THAT ARE NOT IN "AS-NEW" CONDITION IN PROPOSED SIDEWALK. DAMAGED BOXES, OR THOSE THAT ARE NOT IN COMPLIANCE WITH CURRENT CODE SHALL BE REMOVED AND REPLACED WITH NEW BOXES, INCLUDING WATER, SEWER, TRAFFIC SIGNALS, STREET LIGHTS, DRY UTILITIES-SDG&E, COX, ETC. ALL NEW METAL LIDS SHALL BE SLIP RESISTANT (FRICTION FACTOR ≥/= 0.50) AND INSTALLED FLUSH WITH PROPOSED SIDEWALK GRADE. IF A SLIP RESISTANT METAL LID IS NOT COMMERCIALLY AVAILABLE FOR THAT USE, NEW BOXES AND LIDS SHALL BE INSTALLED.

GRADING NOTES

1. GRADING AS SHOWN ON THESE PLANS SHALL BE IN CONFORMANCE WITH CURRENT STANDARD SPECIFICATIONS AND CHAPTER 14, ARTICLE 2, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE, 2000 EDITION.

2. PLANT AND IRRIGATE ALL CUT AND FILL SLOPES AS REQUIRED BY ARTICLE 2, DIVISION 4, SECTION 142.0411 OF THE SAN DIEGO LAND DEVELOPMENT CODE AND ACCORDING TO SECTION IV OF THE LAND DEVELOPMENT MANUAL LANDSCAPE STANDARDS.

3. GRADED, DISTURBED, OR ERODED AREAS THAT WILL NOT BE PERMANENTLY PAVED, COVERED BY STRUCTURE, OR PLANTED SHALL BE TEMPORARILY REVEGETATED WITH A NON-IRRIGATED HYDROSEED MIX, GROUND COVER, OR EQUIVALENT MATERIAL.

OPERATION & MAINTENANCE PROCEDURE DETAILS

DAM RESPONSIBLE PARTY DESIGNEE/PROPERTY OWNER/AE

BMP DESCRIPTION	INSPECTION FREQUENCY	MAINTENANCE FREQUENCY	MAINTENANCE METHOD
SITE DESIGN			
SOURCE CONTROL			
TREATMENT CONTROL			

STREET DATA TABLE

STREET NAME	CLASSIFICATION	DESIGN SPEED (MPH)	FUTURE ADT (VEHICLES)	R/W (FT)

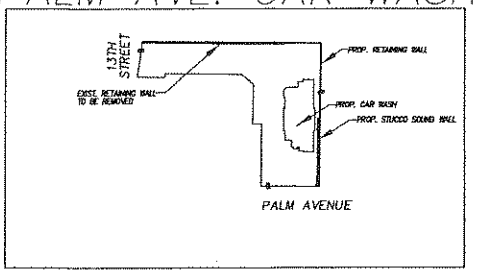
CONSTRUCTION CHANGE TABLE

CHANGE	DATE	ATTY'D OR ADDED SHEET NUMBERS

ACAL ENGINEERING & SURVEYING
SD 07-071

GRADING PLANS FOR:

PALM AVE. CAR WASH



KEY MAP
1"=100'

GROUND WATER DISCHARGE NOTES

1. ALL GROUND WATER EXTRACTION AND SIMILAR WASTE DISCHARGES TO SURFACE WATERS NOT TRIBUTARY TO THE SAN DIEGO BAY ARE PROHIBITED UNTIL IT CAN BE DEMONSTRATED THAT THE OWNER HAS APPLIED AND OBTAINED AUTHORIZATION FROM THE STATE OF CALIFORNIA VIA AN OFFICIAL "ENROLLMENT LETTER" FROM THE REGIONAL WATER QUALITY CONTROL BOARD IN ACCORDANCE WITH THE TERMS, PROVISIONS AND CONDITIONS OF STATE ORDER NO 2001-95 NPDES CAG919002.

2. THE ESTIMATED MAXIMUM DISCHARGE RATES MUST NOT EXCEED THE LIMITS SET IN THE OFFICIAL "ENROLLMENT LETTER" FROM THE REGIONAL BOARD UNLESS PRIOR NOTIFICATION AND SUBSEQUENT AUTHORIZATION HAS BEEN OBTAINED, AND DISCHARGE OPERATIONS MODIFIED TO ACCOMMODATE THE INCREASED RATES.

3. ALL GROUND WATER EXTRACTIONS AND SIMILAR WASTE DISCHARGES TO SURFACE WATERS TRIBUTARY TO THE SAN DIEGO BAY ARE PROHIBITED UNTIL IT CAN BE DEMONSTRATED THAT THE OWNER HAS APPLIED AND OBTAINED AUTHORIZATION FROM THE STATE OF CALIFORNIA VIA AN OFFICIAL "ENROLLMENT LETTER" FROM THE REGIONAL WATER QUALITY CONTROL BOARD IN ACCORDANCE WITH THE TERMS, PROVISIONS AND CONDITIONS OF STATE ORDER NO 2000-90, NPDES NO. CAG919001.

GRADING & GEOTECHNICAL SPECIFICATIONS

1. ALL GRADING SHALL BE DONE UNDER OBSERVATION AND TESTING BY A QUALIFIED CIVIL ENGINEER OR GEOTECHNICAL ENGINEER AND, IF REQUIRED, BY A QUALIFIED CIVIL ENGINEER OR GEOTECHNICAL ENGINEER AND AN ENGINEERING GEOLOGIST. ALL GRADING MUST BE PERFORMED IN ACCORDANCE WITH APPLICABLE CITY ORDINANCE AND THE RECOMMENDATIONS AND SPECIFICATIONS SET FORTH IN THE SOILS REPORT OR GEOLOGICAL/GEOTECHNICAL INVESTIGATION ENTITLED

GRADING PLANS FOR: PALM AVENUE CAR WASH, PREPARED BY ACAL ENGINEERING & SURVEYING, INC.; PTS # 14106, WORK ORDER No. 428661 (DRAWING No. 34679)

LIMITED GEOTECHNICAL INVESTIGATION, PROPOSED CARWASH BUILDING, PALM AVENUE, APN 616-020-21, IMPERIAL BEACH, CALIFORNIA, PREPARED BY EAST COUNTY SOILS CONSULTATION AND ENGINEERING, INC., DATED SEPTEMBER 6, 2007, PROJECT No. 07-122857.

LIMITED GEOTECHNICAL INVESTIGATION, PROPOSED CAR WASH BUILDING FOR PALM AVENUE CAR WASH PREPARED BY EAST COUNTY SOIL CONSULTATION AND ENGINEERING, INC. DATED 06/06/2007.

2. ALL FILL MATERIAL SHALL BE COMPACTED TO A MINIMUM OF 90% OF THE MAXIMUM DRY DENSITY AS DETERMINED BY THE MOST RECENT VERSION OF A.S.T.M. D-1557 OR AN APPROVED ALTERNATIVE STANDARD.

3. AT THE COMPLETION OF THE GRADING OPERATIONS FOR THE EARTHWORK SHOWN ON THIS PLAN, AN AS-GRADED SOILS REPORT, OR IF REQUIRED, AN AS-GRADED SOILS AND GEOLOGICAL REPORT WILL BE PREPARED IN ACCORDANCE WITH THE MOST RECENT EDITION OF THE CITY OF SAN DIEGO TECHNICAL GUIDELINES FOR GEOTECHNICAL REPORTS. THE FINAL "AS-GRADED" GEOTECHNICAL REPORT WILL BE SUBMITTED TO THE FIELD ENGINEERING SECTION OF PUBLIC WORKS AND A SECOND COPY TO THE LDR GEOLOGY SECTION OF THE DEVELOPMENT SERVICES DEPARTMENT WITHIN 15 DAYS OF THE COMPLETION OF GRADING. WHERE GEOLOGIC INSPECTION IS INDICATED IN THE PERMIT OR PROJECT PLANS, REPORTS OR SPECIFICATIONS, THE FINAL REPORT MUST ALSO BE REVIEWED AND SIGNED BY A CALIFORNIA CERTIFIED ENGINEERING GEOLOGIST.

4. IF THE GEOTECHNICAL CONSULTANT OF RECORD IS CHANGED FOR THE PROJECT, THE WORK SHALL BE STOPPED UNTIL THE REPLACEMENT HAS AGREED IN WRITING TO ACCEPT THE RESPONSIBILITY WITHIN THE AREA OF THEIR TECHNICAL COMPETENCE FOR APPROVAL UPON COMPLETION OF THE WORK. IT SHALL BE THE DUTY OF THE PERMITTEE TO NOTIFY THE CITY ENGINEER AND THE LDR GEOLOGY SECTION OF THE DEVELOPMENT SERVICES DEPARTMENT IN WRITING OF SUCH CHANGE PRIOR TO THE RECOMMENCEMENT OF GRADING.

5. THESE GRADING PLANS HAVE BEEN REVIEWED BY THE UNDERSIGNED AND FOUND TO BE IN CONFORMANCE WITH THE RECOMMENDATIONS AND SPECIFICATIONS CONTAINED IN THE REFERENCED GEOTECHNICAL REPORT(S) PREPARED FOR THIS PROJECT.

12/31/13 — G.E. 2074
MAMADOU SALOU DIALLO — EXPIRATION DATE — G.E. — DATE

COMPANY NAME: EAST COUNTY SOIL CONSULTATION AND ENGINEERING, INC.
10865 HARTLEY ROAD, SUITE I
SANTEE, CA. 92071 (619) 258-7902

6. FOR SOIL FILE SEE CITY RECORD S – 14106

DECLARATION OF RESPONSIBLE CHARGE

I HEREBY DECLARE THAT I AM THE ENGINEER OF WORK FOR THIS PROJECT, THAT I HAVE EXERCISED RESPONSIBLE CHARGE OVER THE DESIGN OF THE PROJECT AS DEFINED IN SECTION 6703 OF THE BUSINESS AND PROFESSIONS CODE, AND THAT THE DESIGN IS CONSISTENT WITH CURRENT STANDARDS.

I UNDERSTAND THAT THE CHECK OF PROJECT DRAWINGS AND SPECIFICATIONS BY THE CITY OF SAN DIEGO IS CONFINED TO A REVIEW ONLY AND DOES NOT RELIEVE ME, AS ENGINEER OF WORK, OF MY RESPONSIBILITIES FOR PROJECT DESIGN.

DAVID H. LOWEN — 31915 R.C.E. — DATE

No. 31915
Exp. 12-31-10
CIVIL
STATE OF CALIFORNIA

OWNER/APPLICANT

PAUL D. MAGNOTTO, MARK L. EVANS
14704 CAMINITO VISTA ESTRELLADO
DEL MAR, CA. 92014
(858) 353-0488

REFERENCE DRAWINGS

COUNTY OF SAN DIEGO C.S. DWG. NO. 1988, PARCEL MAP No. 19868

SITE ADDRESS

1440 PALM AVENUE, SAN DIEGO, CA. 92154

TOPOGRAPHY SOURCE

TOPO SOURCE: ACAL ENGINEERING INC. (SEE ENGINEER OF RECORD)
TOPO SOURCE: FIELD TOPOGRAPHY
TOPO SOURCE DATE: MARCH 2006

BENCHMARK

USGS MON. 2955, SELY CORNER 35' SLY OF PALM AVE.
ELEVATION=20.002 DATUM: M.S.L.

TOTAL DISTURBED AREA

TOTAL SITE DISTURBED AREA = 43200 S.F. = 0.97 ACRES

GRADING QUANTITIES

GRADED AREA	0.97 ACRES	MAX. CUT DEPTH	3.5 FEET
CUT QUANTITIES	247 C.Y.	MAX. CUT SLOPE RATIO	(2:1MAX) 2:1
FILL QUANTITIES	4674 C.Y.	MAX. FILL DEPTH	10.5 FEET
IMPORT	4427 C.Y.	MAX. FILL SLOPE RATIO	(2:1MAX) 2:1

THIS PROJECT PROPOSES TO EXPORT 0.0 CUBIC YARDS OF MATERIAL FROM THIS SITE. ALL EXPORT MATERIAL SHALL BE DISCHARGED TO A LEGAL DISPOSAL SITE. THE APPROVAL OF THIS PROJECT DOES NOT ALLOW PROCESSING AND SALE OF THE MATERIAL. ALL SUCH ACTIVITIES REQUIRE A SEPARATE CONDITIONAL USE PERMIT.

AN AS-GRADED GEOTECHNICAL REPORT SHALL BE SUBMITTED TO BOOTH 35 ON THE THIRD FLOOR OF DEVELOPMENT SERVICES WITHIN 15 CALENDAR DAYS OF COMPLETION OF GRADING. AN ADDITIONAL SET SHALL BE PROVIDED TO THE FIELD INSPECTION DIVISION.

STATE WDID NUMBER

NOT REQUIRED: DISTURBED AREA = 0.97 ACRES < 1.0 ACRES

ASSESSORS PARCEL NUMBER

616-020-11, 17

EXISTING LEGAL DESCRIPTION

PARCEL 2 OF PARCEL MAP No. 19868

PROPOSED LEGAL DESCRIPTION

PARCEL 2 OF PARCEL MAP No 19868

SHEET INDEX

TITLE SHEET	SHEET 1
GRADING PLAN	SHEET 2
EROSION CONTROL	SHEET 3
BMP NOTES	SHEET 4
WALL DETAILS	SHEET 5
DETAILS/SECTIONS	SHEET 6

PRIVATE WATER AND WASTEWATER

THE PRIVATE WATER/SEWER SYSTEM IS DESIGNED IN ACCORDANCE WITH THE CALIFORNIA PLUMBING CODE AND IS SHOWN ON THESE PLANS AS "INFORMATION ONLY." A SEPARATE PLUMBING PERMIT IS REQUIRED FOR CONSTRUCTION AND INSPECTION OF THE SYSTEM.

Prepared By:
ACAL Engineering & Surveying, Inc.
Professional Engineers and Land Surveyors
345 N. Melrose Drive, Suite 206
Vista, Ca. 92083
Phone (760) 724-7674
Fax (760) 724-0948

WORK TC

THE IMPROVEMENTS CONSIST...
THESE PLANS AND THE SPECIFICATIONS AND STANDARD DRAWINGS OF THE CITY OF SAN DIEGO.

STANDARD SPECIFICATIONS:

1. STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION, 2006 EDITION (GREENBOOK), DOCUMENT NO. AED1371061, FILED DECEMBER 31, 2006, INCLUDING THE REGIONAL AND CITY OF SAN DIEGO SUPPLEMENT, DOCUMENT NO. AED1371063 FILED DECEMBER 31, 2006.

2. 1998 STANDARD SPECIAL PROVISIONS FOR SIGNALS, LIGHTING AND ELECTRICAL SYSTEMS OF CITY OF SAN DIEGO, DOCUMENT NO. 768842, FILED OCTOBER 22, 1998.

3. CALIFORNIA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (CAMUTCD), 2003 EDITION, AS AMENDED FOR USE IN CALIFORNIA), DOCUMENT NO. AED1231064, FILED DECEMBER 31, 2006.

4. STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, STANDARD SPECIFICATIONS, DOCUMENT NO. AED0225062, FILED SEPTEMBER 25, 2006.

STANDARD DRAWINGS:

1. CITY OF SAN DIEGO STANDARD DRAWINGS, INCLUDING ALL REGIONAL STANDARD DRAWINGS, DOCUMENT NO. AED1231063, FILED DECEMBER 31, 2006.

2. STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, STANDARD PLANS DOCUMENT NO. AED0225081, FILED SEPTEMBER 25, 2006.

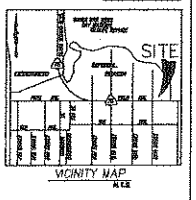
LEGEND

PROPOSED IMPROVEMENTS

IMPROVEMENT	STANDARD SYMBOL	SYMBOL
CUT SLOPE (1 1/2:1)		
FILL SLOPE (2:1)		
DIRECTION OF DRAINAGE (1% MINIMUM)		
FINISH SURFACE	FS	
TOP OF CURB	TC	
FLOWLINE	FL	
TOP OF WALL	TW	
TOP OF FOOTING	TF	
PROPOSED MASONRY/REINFORCED TIERED RETAINING WALL (PER SEPERATE PERMIT)		
PROPOSED 4" HDPE STORM DRAIN PIPE		
No. 2 BACKING RIP-RAP PER SDRSD D-40		
DIRECTION OF VEHICLE TRAFFIC		
PROJECT BOUNDARY		
SILT FENCING (SC-1)		
GRAVEL BAG BERM/INLET PROTECTION/SANDBAG BARRIER (SC-6, 10, 8)		
BFM SLOPE PROTECTION		
STABILIZED CONSTRUCTION ENTRANCE (TC-1)		
EXTERIOR ELECTRICAL AND LIGHTING		
PROPOSED WOOD HEADLIGHT FENCE		HLF
PROPOSED MASONRY SOUND WALL (PER SEPERATE PERMIT)		SW

EXISTING IMPROVEMENTS

	SYMBOL
EXISTING CONTOUR	880
EXISTING RETAINING WALL	



USE
ENGINEERING PERMIT NO:
PLUMBING PERMIT NO.
RETAINING WALL PERMIT NO:
CONSTRUCTION SITE PRIORITY:

GRADING PLANS FOR:
PALM AVENUE CAR WASH

BIDDING INFORMATION

CITY OF SAN DIEGO, CALIFORNIA
DEVELOPMENT SERVICES DEPARTMENT
SHEET 1 OF 5 SHEETS

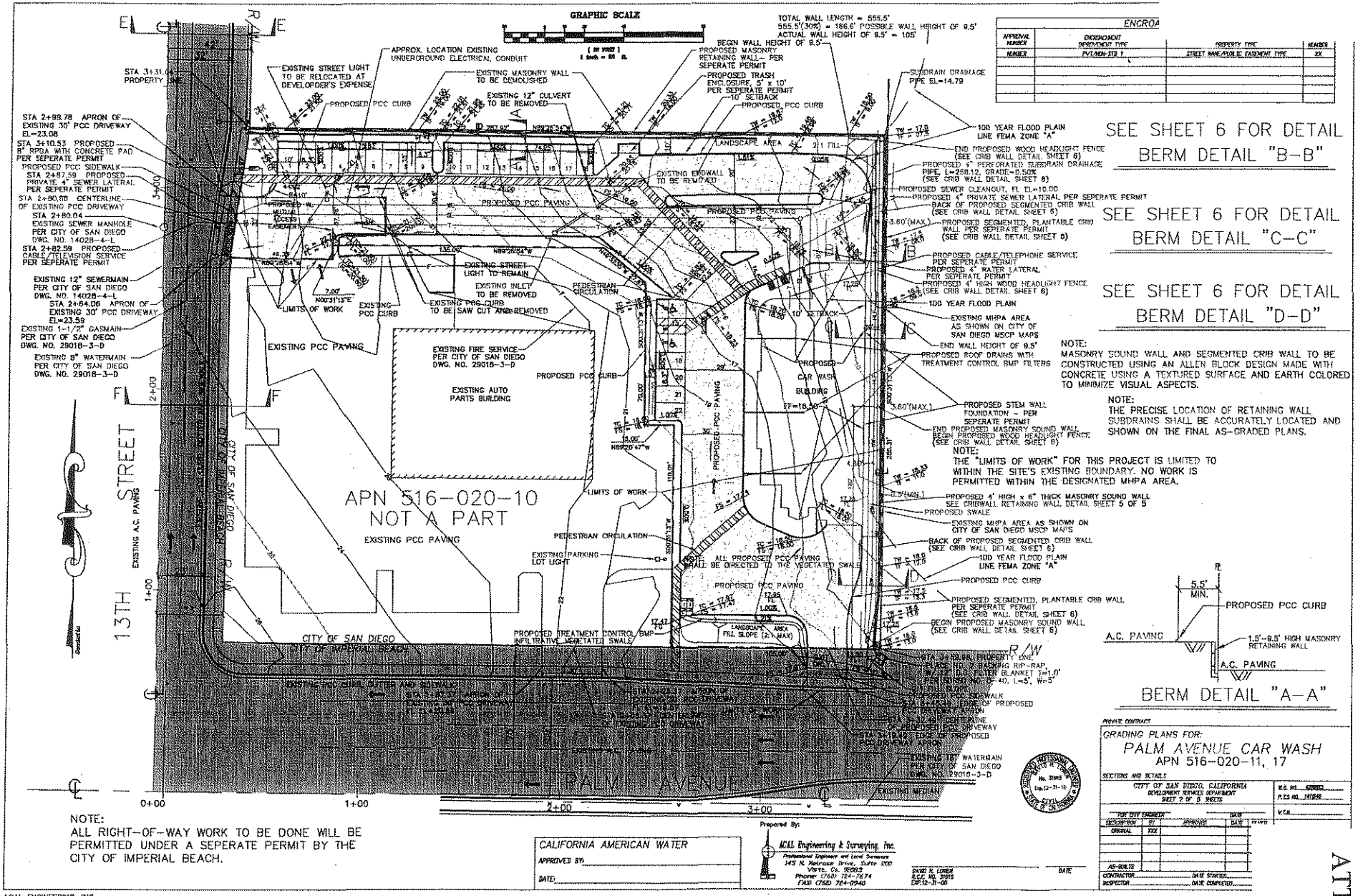
S.D. NO. 428661
P.T.S. NO. 14106
W.O. NO.
FOR CITY ENGINEER — DATE

DESCRIPTION	BY	APPROVED	DATE	PLANS
ORIGINAL				
AS-BUILTS				

1780-1993 NAD83 COORDINATES
XXX-2000 NGVD DATUM

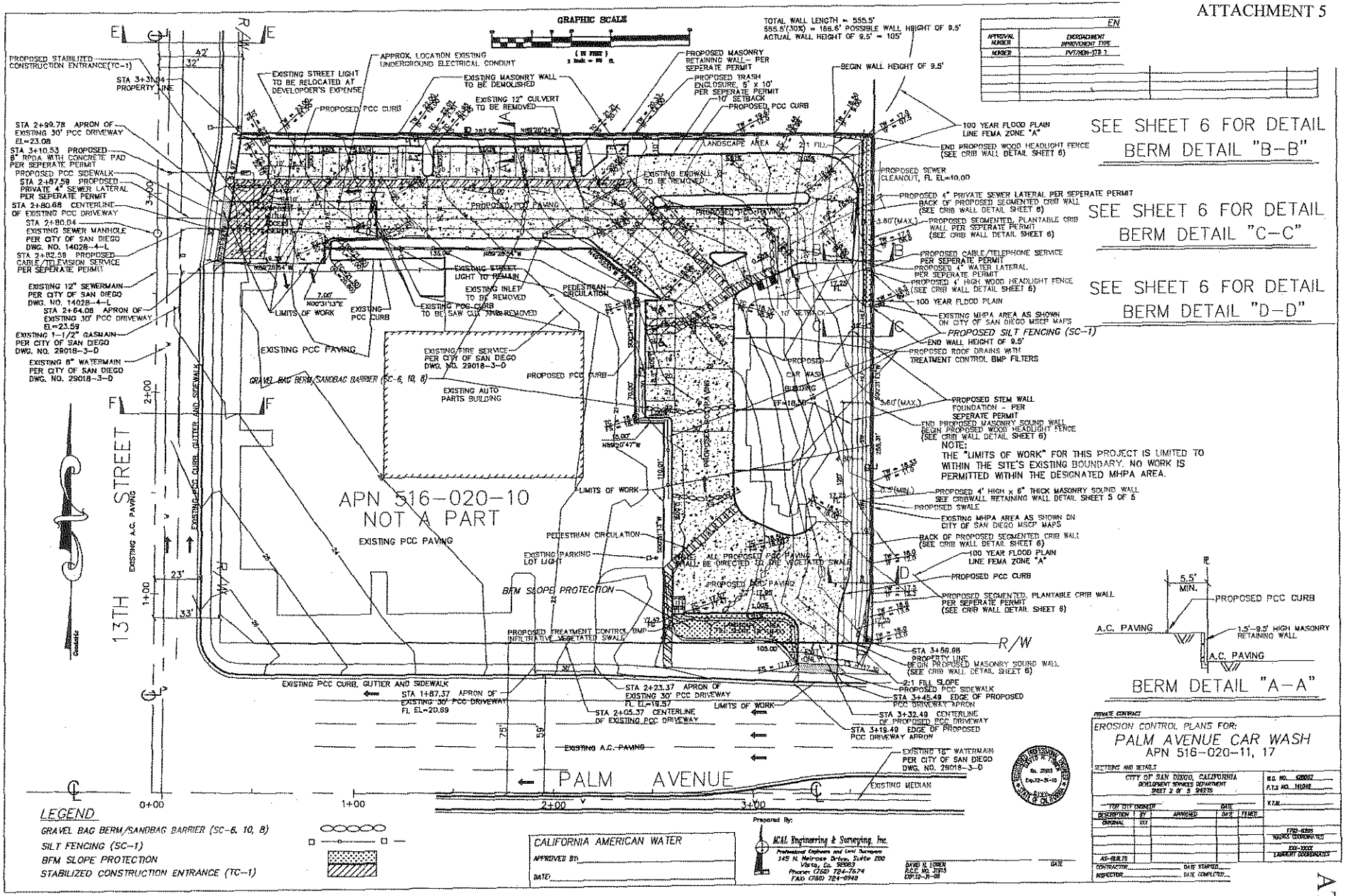
CONTRACTOR — DATE STARTED
INSPECTOR — DATE COMPLETED

CALIFORNIA AMERICAN WATER
APPROVED BY:
DATE:

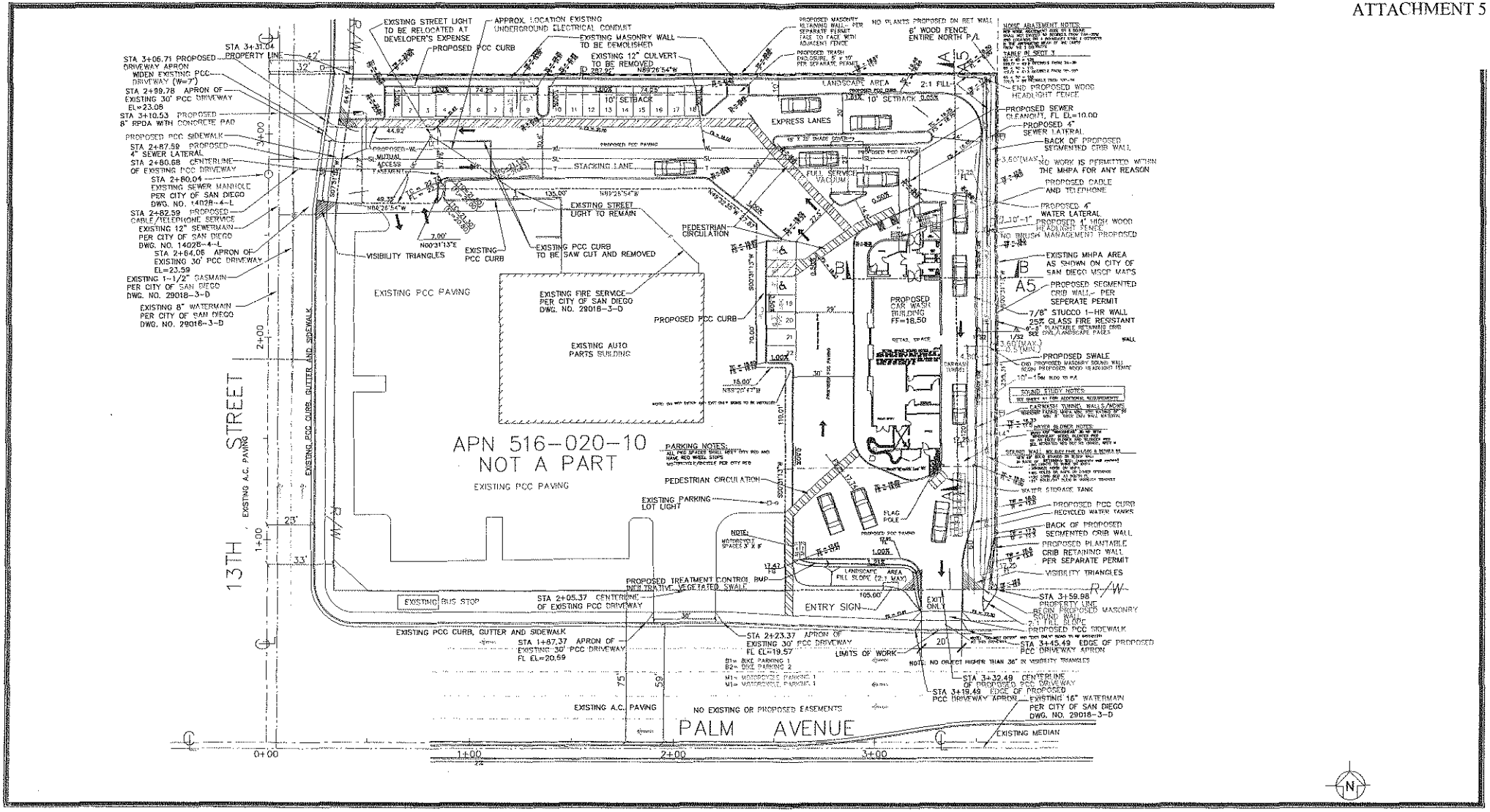


ACAL ENGINEERING, INC.
W.O. 07-871

ATTACHMENT 5



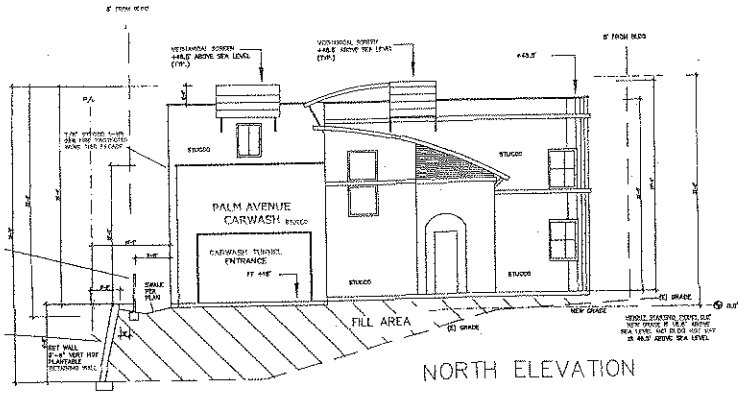
ATTACHMENT 5

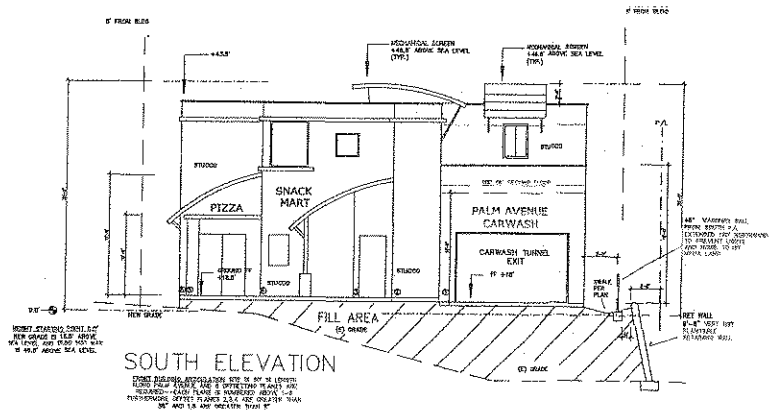


Site Plan
Environmental Analysis Section Project No. 155821
CITY OF SAN DIEGO · DEVELOPMENT SERVICES DEPARTMENT

Figure 2

ATTACHMENT 5

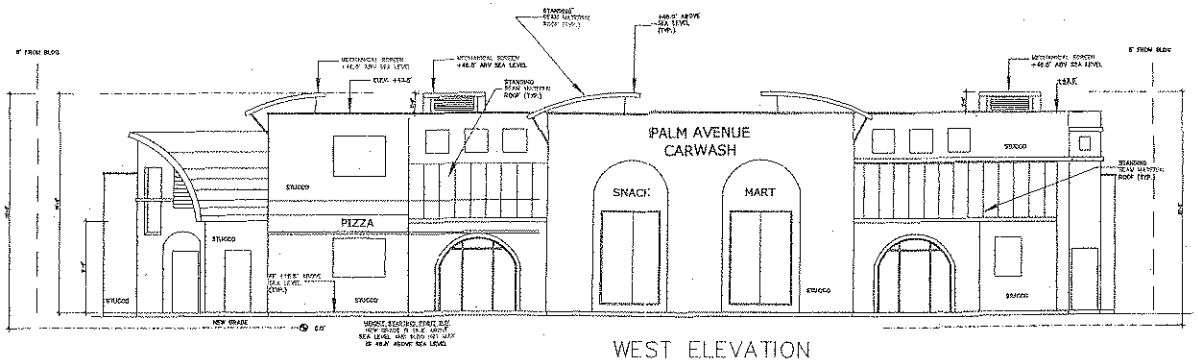




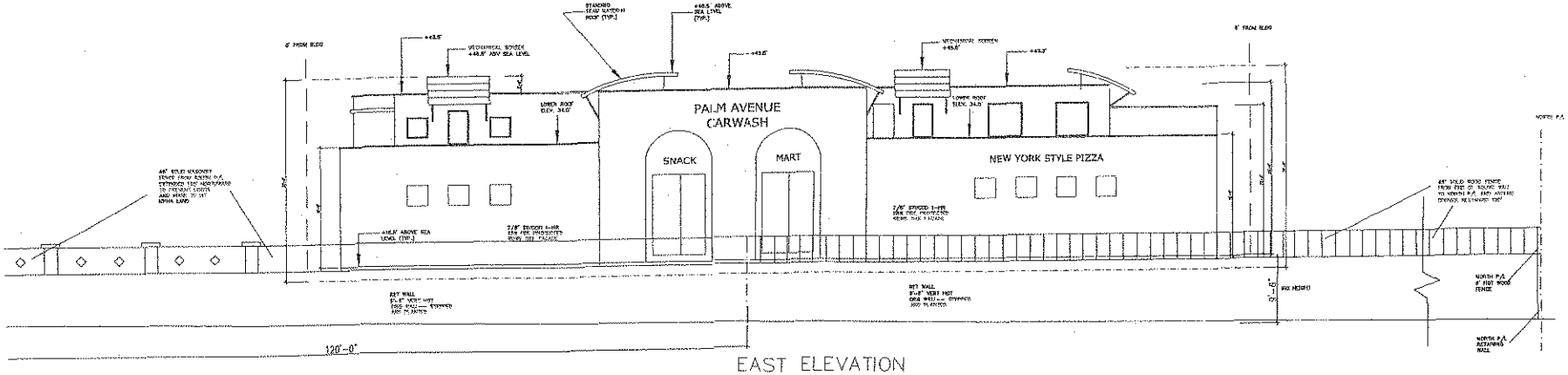
North and South Elevations
Environmental Analysis Section Project No. 155821
CITY OF SAN DIEGO · DEVELOPMENT SERVICES DEPARTMENT

Figure
3

ATTACHMENT 5



WEST ELEVATION

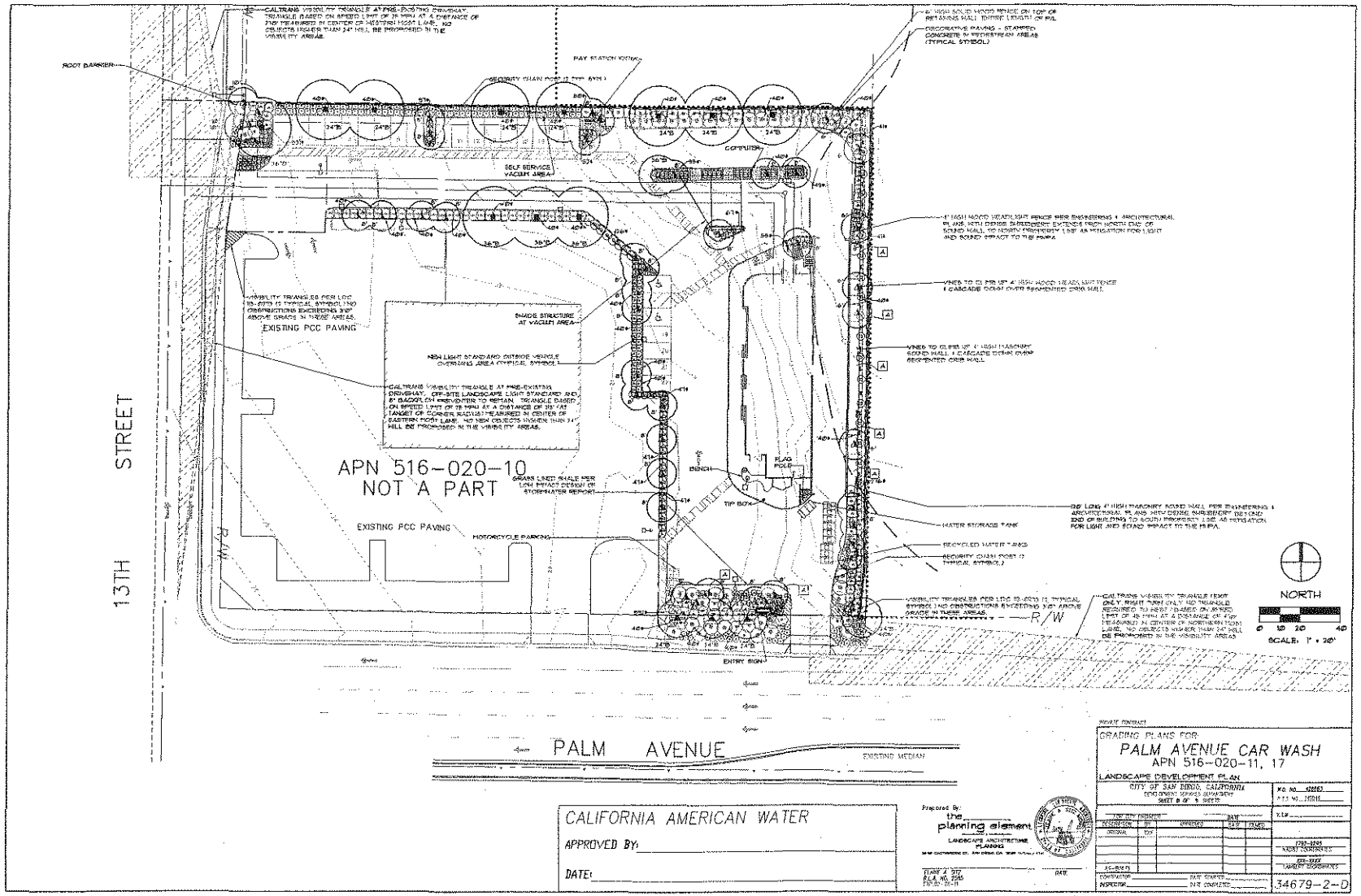


EAST ELEVATION

East and West Elevations
Environmental Analysis Section Project No. 155821
CITY OF SAN DIEGO · DEVELOPMENT SERVICES DEPARTMENT

Figure 4

ATTACHMENT 5



ATTACHMENT 5

LANDSCAPE RELATED STORMWATER NOTES:

1. SITE DESIGN AND SOURCE CONTROL BMPS ARE SHOWN ON THE STORMWATER BMP PLAN PREPARED BY TERRA DATA, DATED MARCH 13, 2009.

2. SITE DESIGN BMPS ARE DESIGNED TO MAINTAIN PRE-DEVELOPMENT RUNOFF CHARACTERISTICS. THE FOLLOWING CONCEPTS WERE APPLIED TO THIS PROJECT IN THE FOLLOWING MANNER:

MINIMIZE IMPERVIOUS FOOTPRINT BY DESIGNING NEW STRUCTURES IN FEASIBLE STORIES. LANDSCAPE AREAS HAVE BEEN ADDED TO MAXIMIZE INFILTRATION.

MINIMIZE DIRECTLY CONNECTED IMPERVIOUS AREAS BY ALLOWING THE ROOF RUNOFF TO FLOW OVER PERVIOUS SURFACES. ROOF DRAINS WILL DRAIN TOWARD LANDSCAPED AREAS.

3. DRAINAGE - THERE SHALL BE NO INTERFERENCE WITH OR ALTERATION OF THE ESTABLISHED DRAINAGE PATTERN ON THE SITE UNLESS AN ADEQUATE ALTERNATIVE PROVISION IS MADE FOR PROPER DRAINAGE WITH THE PRIOR WRITTEN APPROVAL OF THE CITY OF SAN DIEGO.

4. BANK STRENGTHENING LANDSCAPE DESIGN - PLANTS WITH SHALLOW WATER REQUIREMENTS SHALL BE GROUPED IN ORDER TO MINIMIZE THE AMOUNT OF EXCESS WATER FLOW.

5. MINIMIZE SOIL COMPACTION IN LANDSCAPE AREAS. PRIOR TO FINAL LANDSCAPE INSTALLATION IN AREAS DISTURBED DUE TO CONSTRUCTION AND WHERE LANDSCAPING WILL BE PLACED, THE SUB-SOIL BELOW THE TOPSOIL LAYER SHALL BE SCARIFIED AT LEAST 6 INCHES. IF TOPSOIL LAYERS OF TOPSOIL EXIST, OR IS IMPORTED, INCORPORATE THE UPPER OR TOPSOIL MATERIAL TO AVOID STRATIFIED LAYERS.

6. LANDSCAPE TOPSOIL IMPROVEMENTS PLAY A SIGNIFICANT ROLE IN MAINTAINING PLANT AND LAWN HEALTH PLUS ENHANCE THE SOIL'S CAPACITY TO RETAIN MOISTURE AND NUTRIENTS, REDUCE RUN-OFF FROM THE WATER QUALITY DESIGN STORM AND IMPROVE WATER QUALITY. THE SAN DIEGO LANDSCAPE REGULATIONS SHALL BE ADHERED TO FOR LANDSCAPED AREAS.

LANDSCAPE NOTES:

1. ALL TREES (INCLUDING STREET TREES) WITHIN 5' OF BUILDING OR HARDSCAPE SHALL BE INSTALLED WITH ROOT SOLUTIONS NON BIO-DEGRADABLE ROOT BARRIER INSTALLED ALONG THE LENGTH OF BUILDING OR HARDSCAPE TO BE PROTECTED FOR A MINIMUM TOTAL DISTANCE OF 8'. INSTALL PER MANUFACTURER'S INSTRUCTIONS. THE ROOT BARRIER SHALL NOT WRAP AROUND THE ROOT BALL.

TREE ROOT BARRIERS SHALL BE INSTALLED WHERE TREES ARE PLACED WITHIN 5 FEET OF PUBLIC IMPROVEMENTS INCLUDING MAINS, CURBS, OR STREET PAVEMENTS OR WHERE NEW PUBLIC IMPROVEMENTS ARE PLACED ADJACENT TO EXISTING TREES. THE ROOT BARRIER SHALL NOT WRAP AROUND THE ROOT BALL.

2. ALL REQUIRED LANDSCAPE AREAS SHALL BE MAINTAINED BY THE OWNER. THE LANDSCAPE AREAS SHALL BE MAINTAINED FREE OF DEBRIS & LITTER. ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY, GROWING CONDITION AND DISEASE OR DEAD PLANT MATERIAL SHALL BE SATISFACTORILY TREATED OR REPLACED PER THE CONDITIONS OF THE PERMIT.

3. ALL PRUNING SHALL COMPLY WITH THE STANDARDS OF THE NATIONAL ARBORIST ASSOCIATION. ALL REQUIRED PLANTING AREAS SHALL BE MAINTAINED FREE OF WEEDS, DEBRIS, AND LITTER.

4. ALL LANDSCAPE & IRRIGATION SHALL COMPLY TO THE CITY OF SAN DIEGO'S LAND DEVELOPMENT CODE, LANDSCAPE REGULATIONS, THE LAND DEVELOPMENT MANUAL, LANDSCAPE STANDARDS, AND ALL OTHER CITY AND REGIONAL STANDARDS.

5. IF ANY EXISTING HARDSCAPE OR LANDSCAPE INDICATED ON THE APPROVED PLANS IS DAMAGED OR REMOVED DURING DEMOLITION OR CONSTRUCTION, IT SHALL BE REPAIRED AND/OR REPLACED IN KIND AND EQUIVALENT SIZE PER THE APPROVED PLANS.

6. CONTRACTOR TO PROVIDE SOILS ANALYSIS AND FOLLOW RECOMMENDATIONS THEREIN.

7. ANY PLANT MATERIAL REQUIRED BY THIS DIVISION THAT DIES WITHIN 3 YEARS OF INSTALLATION SHALL BE REPLACED WITHIN 30 CALENDAR DAYS OF PLANT DEATH WITH THE SAME SIZE AND SPECIES OF PLANT MATERIAL SHOWN ON THE APPROVED PLAN. REQUIRED SHRUBS THAT DIE 3 YEARS OR MORE AFTER INSTALLATION SHALL BE REPLACED WITH 5-GALLON SIZE MATERIAL. THE CITY MANAGER MAY AUTHORIZE ADJUSTMENT OF THE SIZE AND QUANTITY OF REPLACEMENT MATERIAL WHEN PLANTING MATERIAL DOES NOT SURVIVE IN RIGHT-OF-WAY AREAS OR WHERE THE EXISTING PLANT BEING REPLACED IS LARGER THAN A 5-GALLON SHRUB OR 24-INCH BOX TREE.

8. ALL HARDSCAPE & WITH WALLS PER ARCHITECTURAL & GRADING PLANS.

9. TREES REQUIRED BY THIS DIVISION SHALL BE MAINTAINED SO THAT ALL BRANCHES OVER PEDESTRIAN WALKWAYS ARE 8 FEET ABOVE THE WALKWAY GRADE AND SO THAT ALL BRANCHES OVER VEHICULAR TRAVEL WAYS ARE 14 FEET ABOVE THE GRADE OF THE TRAVEL WAY.

10. NO IRRIGATION RUNOFF OR OVERSPRAY SHALL CROSS PROPERTY LINES OR PAVED AREAS.

11. THE VELOCITY OF WATER FLOWING TO IRRIGATION SYSTEM PIPING OR SUPPLY PIPES SHALL NOT EXCEED 5 FEET PER SECOND DOWNSTREAM OF THE WATER METER.

12. AN AUTOMATIC, ELECTRICALLY CONTROLLED IRRIGATION SYSTEM SHALL BE PROVIDED AS REQUIRED FOR PROPER IRRIGATION, PLANT DEVELOPMENT AND MAINTENANCE OF THE VEGETATION IN A HEALTHY DISEASE RESISTANT CONDITION. THE DESIGN OF THE SYSTEM SHALL PROVIDE ADEQUATE SUPPORT FOR THE VEGETATION SELECTED. ALL PROPOSED IRRIGATION SYSTEMS WILL USE AN APPROVED RAIN SENSOR SHUT-OFF DEVICE. SYSTEM TO UTILIZE LOW VOLUME AND/OR DRIP IRRIGATION EQUIPMENT PROVIDING 100% COVERAGE. RECYCLED CRIB WALL SHALL BE TEMPORARILY IRRIGATED TO ESTABLISH.

13. SUBSTITUTIONS FOR TREE SPECIES SHALL HAVE SIMILAR FORM/FUNCTION AS DESCRIBED IN THE LEGEND.

14. NO TREES OR SHRUBS EXCEEDING 3' IN HEIGHT AT MATURITY SHALL BE INSTALLED WITHIN 10' OF ANY PUBLIC SEWER FACILITY.

15. ALL PLANTING PROVIDED TO SCREEN RECYCLED CRIB WALL SHALL PROVIDE 80% SCREENING OF THE WALL WITHIN TWO YEARS.

16. PER BIOLOGICAL REPORT: NO SIGNIFICANT (MITIGATED) IMPACTS WILL OCCUR AS THE RESULT OF THE PROPOSED DEVELOPMENT. WHILE IMPLEMENTATION OF THE MITIGATION REQUIRED IDENTIFIED IN THE MITIGATION AND MONITORING SECTION WILL REDUCE THE INDIRECT IMPACTS OF THE PROPOSED PROJECT TO BELOW A LEVEL OF SIGNIFICANCE. THE PROJECT WILL NOT CONTRIBUTE TO CUMULATIVELY SIGNIFICANT IMPACTS.

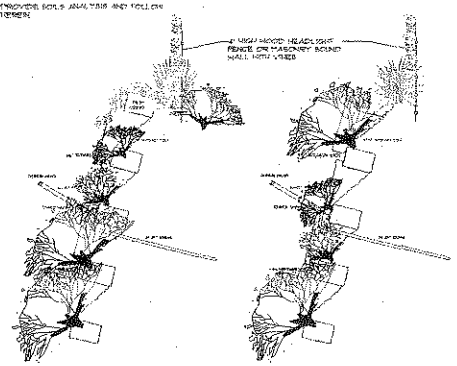
17. SEE BIOLOGICAL REPORT FOR COMPLIANCE WITH LAND USE ADJACENCY GUIDELINE REQUIREMENTS.

18. NO EXISTING OR PROPOSED EASEMENTS.

19. MULCH: ALL REQUIRED PLANTING AREAS SHALL BE COVERED WITH MULCH TO A MINIMUM DEPTH OF 3 INCHES, EXCLUDING SLOPES REQUIRING REVEGETATION AND AREAS PLANTED WITH GROUND COVER. ALL EXPOSED SOIL AREAS WITHOUT VEGETATION SHALL ALSO BE MULCHED TO THIS MINIMUM DEPTH.

MINIMUM TREE SEPARATION DISTANCE

TRAFFIC SIGNAL, STOP SIGN	20 FEET
UNDERGROUND UTILITY LINES	5 FEET
SEWER	10 FEET
ABOVE GROUND UTILITY STRUCTURES (TRANSFORMERS, HYDRANTS, STUFFY WELLS, ETC.)	10 FEET
DRIVEWAYS	10 FEET
INTERSECTIONS (INTERSECTING CURB LINES OF TWO STREETS)	25 FEET



PLANTING LEGEND

SYMBOL	BOTANICAL/COMMON NAME	SIZE	QUAN.	REMARKS	POINT
	STREET TREES each dia. 50% @ 15" & 50% 24" BOX				
▲	ALBIZIA JULIBRISSIN SILK TREE	24" BOX	4	30'H x 30'W	STREET TREE PER CITY REQUIREMENTS
▲	METROSIDEROS EXCELSUS NEW ZEALAND CHRISTMAS TREE			40'H x 30'W 30'H x 30'W	
	ARECASTRUM ROMANZOFFIANUM KING PALM	60" STK	4	60'H x 20'-25'W	UPRIGHT PALM
▲	SYAGRUS ROMANZOFFIANUM QUEEN PALM			60'H x 20'-25'W	
	WODYETIA BIFURCATA FOXTAIL PALM			30'-60'H x 20'-15'W	
	PARKING LOT SHADE TREES each dia. 50% 24" BOX				
■	ERYTHRINA CRISTA-GALLI 'COMMON CORAL TREE'	24" BOX	4	40'-60'H x 30'-50'W	MID-SIZE ACCENT TREE
	GEIJERA PARVIFLORA AUSTRALIAN WILLOW		7	30'-50'H x 20'W	
	HYMENOSPORUM FLAVUM HOPBUSH			30'-60'H x 20'-30'W	
	SCREENING TREES each dia. 50% 36" BOX				
◪	ACACIA RUBIDAE AUSTRALIAN PEPPERMINT WILLOW	36" BOX	1	25'-35'H x 20'-30'W	UMBRELLA SHAPE TREE
	CASSIA LEPTOPHYLLA GOLD MEDALLION TREE			30'-35'H x 30'W	
	RUS LANCEA AFRICAN SUMAC			20'-30'H x 30'-35'W	
	ACCENT TREES each dia. 25% 5" BSTH, 75% 8" BSTH, 6% 24" BOX				
	ARECASTRUM ROMANZOFFIANUM KING PALM	8' BTH 6' BTH	33 6	60'H x 20'-25'W 60'H x 20'-25'W	UPRIGHT PALM
▲	SYAGRUS ROMANZOFFIANUM QUEEN PALM			30'-60'H x 20'-15'W	
	WODYETIA BIFURCATA FOXTAIL PALM			30'-60'H x 20'-15'W	
◧	CHITALPA TASHKENTENSIS 'PINK DAWN'	24" BOX	9	20'-25'H x 20'-25'W	ROUND HEADED ACCENT TREE
	LAGERSTROEMIA INDICA 'NATCHEZ' CRAPE MYRTLE			15'-20'H x 15'-20'W	
	MICHELIA CHAMPACA CHAMPACA			15'-20'H x 20'-25'W	
	SCREENING SHRUBS each dia. 33% 1 GAL, 67% 5 GAL				
⊛	ARBUTUS UNEDO 'ELFIN KING' DWARF STRAWBERRY TREE	5 GAL	2	4-6'H x 3-4'W	DWARF SHRUB
	NANDINA DOMESTICA HEAVEN'S BAMBOO			4-6'H x 3-4'W	
	YEDDA'S TINE 'DWARF' LAVENDER			3-5'H x 3-5'W	
	HYPERICUM 'HIDCOTE' HIDCOTE GOLD	1 GAL	1	5'H x 5'W	VASE SHAPE SHRUB
⊛	CARPENTERIA CALIFORNICA BUSH ANEMONE			4-6' H x 4-6' W	
	STRELITZIA REGINAE BIRD OF PARADISE			5'H x 5'W	
	ARBUTUS UNEDO 'ELFIN KING' DWARF STRAWBERRY TREE	5 GAL	12	4-6'H x 3-4'W	DWARF SHRUB
⊛	NANDINA DOMESTICA HEAVEN'S BAMBOO			4-6'H x 3-4'W	
	YEDDA'S TINE 'DWARF' LAVENDER			3-5'H x 3-5'W	
	HYPERICUM 'HIDCOTE' HIDCOTE GOLD	1 GAL	52	5'H x 5'W	VASE SHAPE SHRUB
⊛	STRELITZIA NICOLAI 'DWARF' DWARF BRONZE FLAX			4-6' H x 4-6' W	
	CARPENTERIA CALIFORNICA 'ELFIN' ANEMONE			5'H x 5'W	
	STRELITZIA REGINAE BIRD OF PARADISE			5'H x 5'W	
⊛	CAESALPINIA MEXICANA MEXICAN BIRD OF PARADISE	5 GAL	28	10'H x 10'W	LARGE ROUND SHRUB
	CALLISTEMON CITRINUS 'LITTLE JOHN' DWARF BOTTLE BRUSH			10'-15'H x 8'-10'W	
	CALLIANDRA HAEMATOCEPHALA 'PINK POWDERPUFF'			10'H x 8'W	
	ARBUTILEA 'NICOLII' NO COMMON NAME	5 GAL	42	4-6'H x 4-5'W	MIDSIZE ROUND SHRUB
⊛	ESCALLONIA 'FRADESII' COMPACT ESCALLONIA			5-6'H x 4-5'W	
	ROSMARINUS OFFICINALIS 'ARP' ARP ROSEMARY			3-5'H x 3-5'W	
	ACCENT SHRUBS each dia. 100% 1 GAL				
	AGAPANTHUS PRAECOX ORIENTALIS LILY OF THE NILE	1 GAL	163	2'H x 3'W	SMALL FLOWERING PERENNIAL
⊛	HEMEROCALLIS HYBRID 'STELLA DE ORO' YELLOW DAYLILY			2'H x 2'W 2'H x 3'W	
	LIRIOPE SPICATA 'BIG BLUE' BIG BLUE LILY TURF				
	ARENARIA MONTERA COTTON TUFTS	1 GAL	159	10"H x 24"W	SMALL ORNAMENTAL GRASS
⊛	CAREX 'ICE DANCE' VARIEGATED SEDGE			14"H x 18"W 14"H x 24"W	
	FESTUCA GLAUCA 'BLAU' BLAU FESCUE				
	CHONDROPETALUM TECTORUM 'DWARF CAPE RUSH'	1 GAL	6	3'H x 3'W	MID SIZE ORNAMENTAL GRASS
⊛	DIETES VEGETA 'SPACE AGE' SPACE AGE IRIS			3'H x 3'W 3'H x 3'W	
	JUNCUS ACUTUS 'SOUTHERN' SOUTHERN RUSH				
	GERANIUM 'ANN FOLKARD' CRANESBILL	1 GAL	56	1-2'H x 3'W	CREEPING FLOWERING PERENNIAL
⊛	MIMETES CUCULLATUS 'BALKAN PURPLE' BALKAN PURPLE			3'H x 2-3'W	
	MIRABILIS LAEVIS VARIEGATA 'WILD FOUR O'CLOCK'			1-2'H x 3-5'W	

SYMBOL	BOTANICAL/COMMON NAME	SIZE	QUAN.	REMARKS	POINT
	SLOPE BANDS each dia. 4% 1 GAL, 96% 5 GAL				
⊛	ARTEMISIA CALIFORNICA 'CANYON GREY' CALIFORNIA SAGEBRUSH	1 GAL	41	3'H x 4-5'W	SMALL NATURALIZING SHRUB
	ERIOGONUM FASCICULATUM CALIFORNIA BUCKWHEAT			2-3'H x 4'W	
	SALVIA MELLIFERA 'TRES RIOS' BLACK SAGE			1-2'H x 4'W	
⊛	CERATOSTIGMA PLUMBAGINOIDES 'FORAKER' PLUMBAGO	1 GAL	41	6"H x 8"W	PROSTRATE SPREADING SHRUB
	ROSMARINUS OFFICINALIS 'HUNTINGTON CARPET' PROSTRATE ROSEMARY			2-3'H x 4-5'W	
	LANTANA CAMARA 'NEW GOLD' NEW GOLD LANTANA			3'H x 3'W	
⊛	CISTUS X PURPUREUS CRIMSON SPOT ROCK ROSE	5 GAL	20	4'H x 4'W	MIDSIZE SHRUB
	LEUCOPHYLLUM LANGMANIAE 'RIO BRAVO' TEXAS RANGER			5'H x 5'W	
	SALVIA LEUCANTHA MEXICAN BUSH SAGE			3-4'H x 3-5'W	
⊛	ROSMARINUS OFFICINALIS 'TUSCAN BLUE' TUSCAN BLUE ROSEMARY	5 GAL	20	3'H x 6'W	LARGE PROSTRATE SPREADING SHRUB
	ROSMARINUS OFFICINALIS 'PROSTRATUS' PROSTRATE ROSEMARY			1-2'H x 8-10'W	
	SANVITALIA PROCUMBENS 'MIRASOL GOLD' CREEPING ZINNIA			2-3'H x 6-8'W	
	LANTANA MONTEVIDENSIS 'TRAILING PURPLE' TRAILING LANTANA				
	SCREENING VINES (INSTALLING each dia. 100% 1 GAL				
	IRRIGATION LEPTOPUS CORAL VINE (CASCADE OVER PLANTABLE CRIB WALL, 1 PLUS UP BOUND WALL)	1 GAL	27	40' VINE	NATURALIZING
I	GALVESTIA SPP. ISLAND BUSH SNAPDRAGON (CASCADE OVER PLANTABLE CRIB WALL, 1 PLUS UP BOUND WALL)			8' VINE SPREAD 10' VINE	6-GALLON
	GELSEMIUM SEMPERVIRENS CAROLINA JESSAMINE (CASCADE OVER PLANTABLE CRIB WALL, 1 PLUS UP BOUND WALL)				
	CLYTOSTOMA CALLISTEGIOIDES VIOLET TRUMPET VINE	1 GAL	10	20' VINE 20' VINE	MID-SIZE VINE
I	DISTICTIS 'RIVERS' ROYAL TRUMPET VINE				
	PETREA VOLUBILIS QUEEN'S WREATH				
	GROUND COVER each dia. 90% HERB MATERIAL (3" LAYER) 10% SOD				
NOTED	MULCH WOOD MULCH OR EQUAL ON ALL LANDSCAPE PLANTING AREAS.)	3" LAYER			MULCH
A	TURF - BERMUDA NO MOW HILLSIDE SOD FESCUE	SOD			FILTERING GRASS
	IBERIS SEMPERVIRENS 'ARCTIC' ARCTIC CANDYTUFT	1 GAL	67	6"H x 8"W	CREEPING FLOWERING GROUND COVER
⊛	MYOPORUM PARVIFOLIUM 'WHITE CAP' WHITE CAP			5"H x 8"W	
	TRACHELOSPERMUM ASIATICUM 'ASIATIC JASMINE' ASIATIC JASMINE			6"H x 8"W	
	RECYCLED CRIB WALL PLANTING each dia. 100% 1 GALLON (MINIMUM 1 PER CELL) TEMPORARY IRRIGATION TO ESTABLISH				
NOTED	BACCHARIS PILULARIS 'PIGEON POINT' DWARF COYOTE BRUSH	LINER		8-12" x 6'W	NATIVE/ NATURALIZED PLANT
	ERIGERON GLAUCUS BEACH ASTER	LINER		11"H x 8'W	
	GALVESTIA SPECIOSA ISLAND BUSH SNAPDRAGON			8' VINE SPREAD	

DESIGN CONCEPT STATEMENT

THE LANDSCAPE HAS BEEN DESIGNED TO COMPLEMENT THE BUILDING ARCHITECTURE AND TO MEET THE REQUIREMENTS OF THE CITY OF SAN DIEGO LAND DEVELOPMENT CODE, THE OTAY MESA-NESTOR COMMUNITY PLAN, AND PROVIDING REGULATIONS, NON-NATIVE PLANT MATERIAL WILL NOT BE INTRODUCED INTO THE AREA ADJACENT TO THE MHPA. BY UTILIZING DROUGHT TOLERANT PLANT MATERIAL, LOW VOLUME AND/OR DRIP IRRIGATION IS APPROPRIATE FOR WATER CONSERVATION. A 3" LAYER OF MULCH WILL BE MAINTAINED TO HELP KEEP THE SOIL AT AN EVEN TEMPERATURE, PREVENT WEEDS AND SLOW EVAPORATION OF WATER. SITE AMENITIES INCLUDE A BENCH AT AN EVE TRASH RECEPTACLE, SHADE STRUCTURE AT THE VACUUMING AREA AND A PAY STATION KIOSK. PEDESTRIAN AND ADA CIRCULATION ALIGNS FOR AN ENTRANCE OFF PALM AVENUE THAT IS SEPARATE FROM THE VEHICLE EXIT. A 6' HIGH WOOD HEADER/SAFETY FENCE PROVIDES PEDESTRIAN ACCESS FROM THE SITE INTO THE MHPA AND PROTECTS NEIGHBORS LIGHT AND NOISE INTRUSION INTO THE MHPA. DRAINAGE IS DIRECTED AWAY FROM THE MHPA AND UTILIZES A GRAVEL LINED SWALE TO FILTER RUNOFF OUT OF THE WATER PRIOR TO IT ENTERING THE CITY'S PUBLIC DRAINAGE SYSTEM. HIGH LIGHTING WILL BE SHIELDED AND DIRECTED AWAY FROM THE MHPA. BRUSH MANAGEMENT IS NOT REQUIRED PER FIRE PLANS OFFICER. ALL MANUFACTURED SLOPES ARE ON-SITE AND NOT WITHIN THE MHPA. STREET TREES HAVE BEEN CHOSEN FROM THE APPROVED STREET TREE LIST OF THE OTAY MESA-NESTOR COMMUNITY PLAN TO ASSURE THE SITE COMPLEMENTS THE EXISTING STREETSCAPE. IN ADDITION TO ORNAMENTAL PLANT MATERIAL THE PLANTING PALLATE UTILIZES NATIVE AND NATURALIZING PLANTS TO BLEND WITH THE ADJACENT TRAIL MARKER. THE DESIGN INTENT IS TO CREATE A LANDSCAPE THAT IS SAFE, COLORFUL, DROUGHT TOLERANT AND EASY TO MAINTAIN WHICH WILL BLEND WITH THE NEIGHBORHOOD AND WILL ENDURE THROUGHOUT THE YEARS.

CALIFORNIA AMERICAN WATER

APPROVED BY: _____

DATE: _____

Prepared By:
the planning element
LANDSCAPE ARCHITECTURE
PLANNING

PLANS A 32E
PLS 40 2585
EXP 02-28-11

PUBLIC CONTRACT

GRADING PLANS FOR:
PALM AVENUE CAR WASH
APN 516-020-11, 17

LEGENDS, NOTES & DETAILS

CITY OF SAN DIEGO, CALIFORNIA
DEVELOPMENT SERVICES DEPARTMENT
SHEET 7 OF 8 SHEETS

APPROVED	BY	APPROVED	DATE	ITEM #	
ORIGINAL					
15-808.72					

1790-8265 VALVE TOPOGRAPHY

1"=30' HORIZONTAL
1"=30' VERTICAL

CONTRACTOR _____ DATE STARTED _____
INSPECTOR _____ DATE COMPLETED _____

RCE 52585 EXP 02-28-11

DWG NO. 427661
PTS NO. 181246
W.O.#. _____

34679-2-

ATTACHMENT 5

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 23430870

COASTAL DEVELOPMENT PERMIT NO. 554575
SITE DEVELOPMENT PERMIT NO. 730066
PALM AVENUE CAR WASH
PROJECT NO. 155821 (MMRP)
PLANNING COMMISSION

This Coastal Development Permit No. 554575 and Site Development Permit No. 730066 is granted by the Planning Commission of the City of San Diego to Paul D. Magnotto and Marnie A. Magnotto, husband and wife as Tenants in Common as to an undivided 50% Interest, and Mark Lewis Kravis as to an undivided 50% Interest as Tenants in Common, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] Sections 126.0702 and 126.0502.

The 0.94 -acre site is located at 1440 Palm Avenue in the CC-4-2 zone, within the Coastal (appealable), Coastal Height Limit, FEMA Flood Plain (100-year) and Parking Impact Overlay zones, within the Otay Mesa-Nestor Community Plan area. The project site is legally described as a portion of the Southwest quarter of the southeast quarter of the southeast quarter of Section 20, Township 18, Range 2 West San Bernardino Meridian, Map 766.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittees to construct and operate a car wash with convenience store described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated May 20, 2010, on file in the Development Services Department.

The project shall include:

a. Construction of a 8,928-square-foot, two-story car wash with convenience store;

b. Convenience store facility hours of operation shall be a maximum of 16 hours a day; car wash hours of operation are limited to between 7AM to 10PM.

c. Landscaping (planting, irrigation and landscape related improvements);

d. Off-street parking;

e. Accessory improvements including fencing and retaining walls; and

f. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.

3. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and

b. The Permit is recorded in the Office of the San Diego County Recorder.

4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.

5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" conditions(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

13. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration No. 155821 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 155821 to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

- Noise
- Historical Resources (Archaeology)
- Land Use (MSCP/MHPA)

ENGINEERING REQUIREMENTS:

15. All excavated material listed to be exported, shall be exported to a legal disposal site in accordance with the Standard Specifications for Public Works Construction (the "Green Book"), 2003 edition and Regional Supplement Amendments adopted by Regional Standards Committee.

16. Public Right-of-Way Improvements: The boundary between the City of San Diego and the City of Imperial Beach is the Easterly Right-of-Way line of 13th Street as it presently exists and along the northerly Right-of-Way line of Palm Avenue as it presently exists. The City of Imperial Beach has permit jurisdiction over the 13th Street right-of-way and the California Department of Transportation (Caltrans) has permit jurisdiction over the Palm Avenue/SR-75 right-of-way. The applicant shall obtain permits from the City of Imperial Beach as necessary for any work in the 13th Street right-of-way (including a temporary encroachment permit). The applicant shall obtain permits from Caltrans as necessary for any work in the public right-of-way on Palm Avenue/SR-75.

17. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer. All drainage shall be managed on-site and no drainage shall flow directly into Palm Avenue.

18. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

19. This project proposes development in Zone A of a Special Flood Hazard Area (SFHA). Because there are no published base flood elevations for this reach, the applicant will be required

to develop those elevations per the methodology set forth in Managing Floodplain Development In Approximate Zone A Areas, A Guide For Obtaining And Developing Base (100-Year) Flood Elevations, April 1995, Federal Emergency Management Agency prior to issuance of a grading permit.

20. Once the base flood elevations have been determined and approved by the City Engineer, all structures built within the SFHA must have the lowest floor elevated 2 feet above the base flood elevation at that location.

21. Prior to occupancy of any structures on lots within the SFHA, an appropriate map revision which removes the structures from the SFHA must be obtained from the Federal Emergency Management Agency (FEMA). The developer must provide all documentation, engineering calculations, and fees which are required by FEMA.

22. Prior to the issuance of any construction permit, the Applicant shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

23. Prior to the issuance of any construction permit, the Applicant shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

24. Prior to the issuance of any construction permit the Applicant shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

25. Prior to the issuance of any construction permit the Applicant shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, consistent with the approved Water Quality Technical Report.

26. Any party, on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within 90 days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code 66020.

LANDSCAPE REQUIREMENTS:

27. Prior to issuance of any construction permits, landscape construction documents for the revegetation and hydro-seeding of all disturbed land shall be submitted in accordance with the Landscape Standards and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit 'A,' on file in the Office of the Development Services Department.

28. All planting provided to screen retaining walls along eastern property line shall provide 80% per cent screening of wall within two years.

29. Prior to issuance of any grading permits, complete landscape construction documents, including an automatic permanent irrigation system, shall be submitted to the Development Services Department for approval.

30. Prior to issuance of any construction permits for buildings, complete landscape and irrigation construction documents consistent with the Land Development Manual: Landscape Standards shall be submitted to the City Manager for approval. Construction plans shall take into account a 40 square foot area around each tree which is unencumbered by hardscape and utilities as set forth under SDMC 142.0403(b)5.

31. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections.

32. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy or a Final Landscape Inspection.

33. Any required planting that dies within 3 years of installation shall be replaced within 30 calendar days of plant death with the same size and species of plant material shown on the approved plan. Required shrubs or trees that die 3 years or more after installation shall be replaced with 15 gallon size or 60-inch box size material, respectively. Development Services may authorize adjustment of the size and quantity of replacement material where material replacement would occur in inaccessible areas or where the existing plant being replaced is larger than a 15 gallon shrub or 60-inch box tree.

MULTIPLE SPECIES CONSERVATION PROGRAM:

34. The issuance of this permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 (EAS) and any amendments thereto (16 U.S.C. Section 1531 et seq.). In accordance with authorization granted to the City of San Diego from the USFWS pursuant to Sec. 10(a) of the ESA and by the CDFG pursuant to Fish & Game Code sec. 2835 as part of the Multiple Species Conservation Program (MSCP), the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement (IA), executed on July 17, 1997 and on File in the Office of the City Clerk as Document No. 00-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS or CDFG, except in the limited circumstances described in Section 9.6 and 9.7 of the IA.

PLANNING/DESIGN REQUIREMENTS:

35. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

36. All signs associated with this development shall be consistent with sign criteria established by City-wide sign regulations.

37. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

TRANSPORTATION REQUIREMENTS

38. Owner/Permittee shall maintain a minimum of 22 automobile spaces (including 1 van accessible space), 2 motorcycle spaces, and 2 bicycle spaces with rack(s) as required by the Land Development Code; 24 automobile spaces (including 1 standard accessible space and 1 van accessible space), 2 motorcycle spaces, and 2 bicycle spaces with rack(s) are shown on the project's Exhibit "A". All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Director.

39. The convenience store shall not be open more than 16 hours a day, consistent with the transportation analysis parameters of the approved traffic study.

WASTEWATER REQUIREMENTS:

40. All proposed private sewer facilities located within a single lot are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.

41. The Owner/Permittee shall design and construct all proposed public sewer facilities in accordance with established criteria in the most current edition of the City of San Diego Sewer Design Guide. Proposed facilities that do not meet the current standards shall be redesigned or private.

42. All on-site wastewater systems shall be private.

43. The proposed sewer lateral is located in a driveway, it shall be relocated or it shall be private and built according to Figure 2-6 of the City of San Diego Sewer Design Guide. Private sewer laterals require an Encroachment Maintenance and Removal Agreement (EMRA).

44. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities.

45. Sewer lateral connections shall be made in accordance with Table 2-6 0f the City of San Diego Sewer Design Guide.

WATER REQUIREMENTS:

46. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s), if required, outside of any driveway or drive aisle and the removal of any existing unused water services within the right-of-way adjacent to the project site, in a manner satisfactory to the Director of Public Utilities, the City Engineer and the California-American Water Company (CAWC).

47. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including services and meters, shall be complete and operational in a manner satisfactory to the Director of Public Utilities, the City Engineer and the CAWC.

48. The City of San Diego will collect a "meter charge" based on the sizes of the domestic water meters installed by CAWC. There are no capacity charges or charges for the other appurtenances such as fire hydrants. The meter charges will be due at the time of building permit issuance.

49. Prior to the approval of any public improvement drawings, the improvement plans (D-sheets) submitted to the City of San Diego for engineering permits must include a signature block, with signature, for CAWC on each sheet.

50. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Water facilities as shown on the approved plans shall be modified at final engineering to comply with standards.

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.

- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on May 20, 2010 and Resolution No. PC - _____.

PLANNING COMMISSION
RESOLUTION NO. PC-_____
COASTAL DEVELOPMENT PERMIT NO. 554575
SITE DEVELOPMENT PERMIT NO. 730066
PALM AVENUE CAR WASH PROJECT NO. 155821 (MMRP)

WHEREAS, PAUL D. MAGNOTTO AND MARNIE A. MAGNOTTO, HUSBAND AND WIFE AS TENANTS IN COMMON AS TO AN UNDIVIDED 50% INTEREST, and MARK LEWIS KRAVIS AS TO AN UNDIVIDED 50% INTEREST AS TENANTS IN COMMON, Owners/Permittees, filed an application with the City of San Diego for a permit to allow the construction and operation of a car wash with convenience store facility (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Coastal Development Permit No. 554575 and Site Development Permit No. 730066), on portions of a 0.94 -acre vacant site; and

WHEREAS, the project site is located at 1440 Palm Avenue in the CC-4-2 zone, within the Coastal (appealable), Coastal Height Limit, FEMA Flood Plain (100-year) and Parking Impact Overlay zones, within the Otay Mesa-Nestor Community Plan area; and

WHEREAS, the project site is legally described as a portion of the Southwest quarter of the southeast quarter of the southeast quarter of Section 20, Township 18, Range 2 West San Bernardino Meridian, Map 766; and

WHEREAS, on May 20, 2010, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 554575 and Site Development Permit No. 730066 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated May 20, 2010.

FINDINGS:

I. Site Development Permit (SDMC Section 126.0504)

A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.

The project is requesting a Coastal Development Permit and Site Development Permit to allow construction and operation of an 8,928-square-foot car wash with convenience store and office uses to be located on a vacant 0.94 -acre site. Land to the west and north of the site consists of mixed residential and commercial development, and the project site is surrounded by commercial development to the south. The property is zoned CC-4-2 (Commercial-Community), a zone intended to allow for heavy commercial including high intensity, strip commercial characteristics and residential uses. The Otay Mesa-Nestor Community Plan

designates the site for Community-Commercial land use and the proposed project is consistent with this designation. The facility, with the associated site improvements and corresponding development intensity, complies with the development regulations, standards, and policies in effect for the project site per the Otay Mesa-Nestor Community Plan and all other City regulations, policies, guidelines, design standards and adopted land use plans applicable to this site. Therefore, the proposed development will not adversely affect the goals and objectives of the Otay Mesa-Nestor Community Plan.

B. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, AND WELFARE.

The project is requesting a Coastal Development Permit and Site Development Permit to allow construction and operation of an 8,928-square-foot car wash with convenience store and office uses to be located on a vacant 0.94 -acre site. A Mitigated Negative Declaration No. 155821 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines, which identified the potential for adverse impacts related to Noise, Historical Resources (Archaeology) and Land Use (MSCP/MHPA) and implementation of a Mitigation, Monitoring, and Reporting Program (MMRP) in included as a condition of the project. The MMRP is detailed in Section V of the Mitigated Negative Declaration No. 155821. Implementation of the MMRP would reduce any potential project-related impacts to below a level of significance.

The development permit for this project includes conditions of approval relevant to achieving project compliance with the applicable regulations of the Land Development Code. The project proposes development in Zone A of a Special Flood Hazard Area (SFHA). Because there are no published base flood elevations for this reach, the applicant will be required to develop those elevations per the methodology set forth in Managing Floodplain Development In Approximate Zone A Areas, A Guide For Obtaining And Developing Base (100-Year) Flood Elevations, April 1995, Federal Emergency Management Agency (FEMA) prior to issuance of a grading permit. As a condition of the development permit, once the base flood elevations have been determined and approved by the City Engineer, all structures built within the SFHA must have the lowest floor elevated 2 feet above the base flood elevation at that location. Additionally, the project will support the Otay Mesa-Nestor Community Plan recommendations and guidelines for commercial development by ensuring the building street facades have three-dimensional relief to provide visual interest at the street level, and by incorporating pedestrian circulation and bicycle racks on site to facilitate residents commuting from nearby residential areas to the convenience store. To ensure compatibility with the adjacent residential and open space areas, the project provides setbacks and landscaped buffers, and will utilize earth-tone colored, textured concrete blocks for the planted crib wall adjacent to the MHPA. The use of this site for a mixed use car wash facility is consistent with the Community-Commercial land use designation and the project as conditioned will not be detrimental to the public health, safety, and welfare.

C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE APPLICABLE REGULATIONS OF THE LAND DEVELOPMENT CODE.

The use of this site as a mixed use car wash facility with convenience store and office uses, including associated site improvements, complies with the development regulations, standards, and policies in effect for the project site in accordance with the CC-4-2 zone, the Otay Mesa-Nestor Community Plan, and all other City regulations, policies, guidelines, design standards and adopted land use plans applicable to this site, and no deviations are required. Therefore, the project complies with the applicable regulations of the Land Development Code.

II. Supplemental Findings--Environmentally Sensitive Lands (SDMC Section 126.0504)

A. THE SITE IS PHYSICALLY SUITABLE FOR THE DESIGN AND SITING OF THE PROPOSED DEVELOPMENT AND THE DEVELOPMENT WILL RESULT IN MINIMUM DISTURBANCE TO ENVIRONMENTALLY SENSITIVE LANDS.

The project proposes construction and operation of an 8,928-square-foot car wash facility with convenience store and office uses to be located on a vacant 0.94 -acre parcel. The site is located within an area characterized by strip commercial development along Palm Avenue with mixed density residential uses typically developed off the commercial corridor. The L-shaped site lies adjacent to the Multi-Habitat Planning Area (MHPA) along its eastern property line, and sloping down easterly from 13th Street includes a portion of the site mapped within the 100-year floodplain designation. The floodplain area and the MHPA are considered environmentally sensitive lands under the San Diego Municipal Code. Though the project proposes development in Zone A of a Special Flood Hazard Area (SFHA) where there are no published base flood elevations for this site. The applicant will be required to develop those elevations per the methodology set forth in Managing Floodplain Development In Approximate Zone A Areas, A Guide For Obtaining And Developing Base (100-Year) Flood Elevations, April 1995, Federal Emergency Management Agency (FEMA) prior to issuance of a grading permit. As a condition of the development permit, once the base flood elevations have been determined and approved by the City Engineer, all structures built within the SFHA must have the lowest floor elevated 2 feet above the base flood elevation at that location. Though the site does not yet have a FEMA certified base flood elevation, adjacent study areas to the east of the subject property (Zone AE) lists a flood elevation of 11 feet MSL, and the study area to the northwest (Zone AE), lists a flood elevation of 6 feet MSL. It is estimated that the project site base flood elevation is approximately 10 feet MSL, which is below the finish floor elevation of the proposed building (FF=18.5 feet MSL), and meets the criteria for finished floor elevations to be a minimum of 2 feet above the flood elevation.

Due to the site's adjacency to the MHPA, the project is required to utilize mitigation measures in the form of Land Use Adjacency Guidelines in order to avoid significant environmental impacts to the MHPA. Mitigation measures are detailed in Section V of the Mitigated Negative Declaration No. 155821, and include shielding of the MHPA area from light and noise through fence and wall construction along the easterly property boundary, and mechanical equipment utilized within the project is subject to noise limitations. Drainage has been diverted away from the MHPA area, and the retaining/crib wall lying adjacent to the MHPA will be planted with appropriate native plant species.

Implementation of the project as conditioned, including required mitigation, will reduce potential impacts to below a level of significance, and therefore the site is physically suitable for the design and siting of the proposed development, and the development will result in minimum disturbance to environmentally sensitive lands.

B. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATION OF NATURAL LAND FORMS AND WILL NOT RESULT IN UNDUE RISK FROM GEOLOGIC AND EROSIONAL FORCES, FLOOD HAZARDS, OR FIRE HAZARDS.

The project is requesting a Coastal Development Permit and Site Development Permit to allow construction and operation of an 8,928-square-foot car wash with convenience store and office uses to be located on a vacant 0.94 -acre site. Land to the west and north of the site consists of mixed residential and commercial development, and the project site is surrounded by commercial development to the south. The proposed project is located in Geologic Hazard Zone 31 as shown on the City's Seismic Safety Study Geologic Hazards Maps. Zone 31 is characterized by high potential for liquefaction, shallow groundwater, major drainages, and hydraulic fills. A "Limited Geotechnical Investigation, Proposed Carwash Building" was prepared for this project by East County Soil Consultation and Engineering, Inc. (their project No. 07-1329H7). The report concluded that the site could be development as proposed and City Geology staff has concluded that the report adequately addresses the geologic conditions. The project proposes development in Zone A of a Special Flood Hazard Area (SFHA) where there are no published base flood elevations for this site. The applicant will be required to develop those elevations per the methodology set forth in Managing Floodplain Development In Approximate Zone A Areas, A Guide For Obtaining And Developing Base (100-Year) Flood Elevations, April 1995, Federal Emergency Management Agency (FEMA) prior to issuance of a grading permit. As a condition of the development permit, once the base flood elevations have been determined and approved by the City Engineer, all structures built within the SFHA must have the lowest floor elevated 2 feet above the base flood elevation at that location. Though the site does not yet have a FEMA certified base flood elevation, adjacent study areas to the east of the subject property (Zone AE) lists a flood elevation of 11 feet MSL, and the study area to the northwest (Zone AE), lists a flood elevation of 6 feet MSL. It is estimated that the project site base flood elevation is approximately 10 feet MSL, which is below the finish floor elevation of the proposed building (FF=18.5 feet MSL), and meets the criteria for finished floor elevations to be a minimum of 2 feet above the flood elevation.

The project will not significantly alter any natural landform and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

C. THE PROPOSED DEVELOPMENT WILL BE SITED AND DESIGNED TO PREVENT ADVERSE IMPACTS ON ANY ADJACENT ENVIRONMENTALLY SENSITIVE LANDS.

The project is requesting a Coastal Development Permit and Site Development Permit to allow construction and operation of an 8,928-square-foot car wash with convenience store and office uses to be located on a vacant 0.94 -acre site. Land to the west and north of the site consists of mixed residential and commercial development, and the project site is surrounded by commercial

development to the south. The L-shaped project site lies adjacent to the Multi-Habitat Planning Area (MHPA) along its eastern property line, and sloping down easterly from 13th Street includes a portion of the site mapped within the 100-year floodplain designation. Though the project proposes development in Zone A of a Special Flood Hazard Area (SFHA) where there are no published base flood elevations for this site, the applicant will be required to develop those elevations per the methodology set forth in Managing Floodplain Development In Approximate Zone A Areas, A Guide For Obtaining And Developing Base (100-Year) Flood Elevations, April 1995, Federal Emergency Management Agency (FEMA) prior to issuance of a grading permit. As a condition of the development permit, once the base flood elevations have been determined and approved by the City Engineer, all structures built within the SFHA must have the lowest floor elevated 2 feet above the base flood elevation at that location. Though the site does not yet have a FEMA certified base flood elevation, adjacent study areas to the east of the subject property (Zone AE) lists a flood elevation of 11 feet MSL, and the study area to the northwest (Zone AE), lists a flood elevation of 6 feet MSL. It is estimated that the project site base flood elevation is approximately 10 feet MSL, which is below the finish floor elevation of the proposed building (FF=18.5 feet MSL), and meets the criteria for finished floor elevations to be a minimum of 2 feet above the flood elevation.

Due to the site's adjacency to the MHPA, the project is required to utilize mitigation measures in the form of Land Use Adjacency Guidelines in order to avoid significant environmental impacts to the MHPA. Mitigation measures are detailed in Section V of the Mitigated Negative Declaration No. 155821, and include shielding of the MHPA area from light and noise through fence and wall construction along the easterly property boundary, and mechanical equipment utilized within the project is subject to noise limitations. Drainage has been diverted away from the MHPA area, and the retaining/crib wall lying adjacent to the MHPA will be planted with appropriate native plant species. The project site does not provide connectivity between areas of open space and no impacts to wildlife corridors will occur. Therefore the proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

D. THE PROPOSED DEVELOPMENT WILL BE CONSISTENT WITH THE CITY OF SAN DIEGO'S MULTIPLE SPECIES CONSERVATION PROGRAM (MSCP) SUBAREA PLAN.

The project is requesting a Coastal Development Permit and Site Development Permit to allow construction and operation of an 8,928-square-foot car wash with convenience store and office uses to be located on a vacant 0.94 -acre site. Land to the west and north of the site consists of mixed residential and commercial development, and the project site is surrounded by commercial development to the south. The site lies adjacent to the Multi-Habitat Planning Area (MHPA) along its eastern property line. Due to the site's adjacency to the MHPA, the project is required to utilize mitigation measures in the form of Land Use Adjacency Guidelines in order to avoid significant environmental impacts to the MHPA. Mitigation measures are detailed in Section V of the Mitigated Negative Declaration (MND) No. 155821, and include shielding of the MHPA area from light and noise through fence and wall construction along the easterly property boundary, and mechanical equipment utilized within the project is subject to noise limitations. Drainage has been diverted away from the MHPA area, and the retaining/crib wall lying adjacent

to the MHPA will be planted with appropriate native plant species. The project site does not provide connectivity between areas of open space and no impacts to wildlife corridors will occur. Therefore, with the implementation of the project as conditioned, including the incorporation of the required mitigation measure outlined in MND No. 155821, the proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.

E. THE PROPOSED DEVELOPMENT WILL NOT CONTRIBUTE TO THE EROSION OF PUBLIC BEACHES OR ADVERSELY IMPACT LOCAL SHORELINE SAND SUPPLY.

The project site is located within Otay Mesa-Nestor adjacent to an area known as the "Salt Ponds" and is not adjacent to any public beaches or local shoreline sand supply. Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

F. THE NATURE AND EXTENT OF MITIGATION REQUIRED AS A CONDITION OF THE PERMIT IS REASONABLY RELATED TO, AND CALCULATED TO ALLEVIATE, NEGATIVE IMPACTS CREATED BY THE PROPOSED DEVELOPMENT.

The project is requesting a Coastal Development Permit and Site Development Permit to allow construction and operation of an 8,928-square-foot car wash with convenience store and office uses to be located on a vacant 0.94 -acre site. A Mitigated Negative Declaration No. 155821 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines, which identified the potential for adverse impacts related to Noise, Historical Resources (Archaeology) and Land Use (MSCP/MHPA). Implementation of a Mitigation, Monitoring, and Reporting Program (MMRP) is included as a condition of the project and is detailed in Section V of the Mitigated Negative Declaration No. 155821. Implementation of the MMRP would reduce any potential project-related impacts to below a level of significance. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

III. <u>Coastal Development Permit- (SDMC Section 126.0708):</u>

A. THE PROPOSED COASTAL DEVELOPMENT WILL NOT ENCROACH UPON ANY EXISTING PHYSICAL ACCESSWAY THAT IS LEGALLY USED BY THE PUBLIC OR ANY PROPOSED PUBLIC ACCESSWAY IDENTIFIED IN A LOCAL COASTAL PROGRAM LAND USE PLAN; AND THE PROPOSED COASTAL DEVELOPMENT WILL ENHANCE AND PROTECT PUBLIC VIEWS TO AND ALONG THE OCEAN AND OTHER SCENIC COASTAL AREAS AS SPECIFIED IN THE LOCAL COASTAL PROGRAM LAND USE PLAN.

The project is requesting a Coastal Development Permit and Site Development Permit to allow construction and operation of an 8,928-square-foot car wash with convenience store and office uses to be located on a vacant 0.94 -acre site. The project site does not contain any existing physical accessway utilized by the general public to and along the ocean and other scenic coastal areas. The proposed site is not identified in the Otay Mesa-Nestor Community Plan or Local Coastal Program Land Use Plan as a public accessway to be utilized by the general public for providing access to the ocean or other scenic coastal area.

The project site does not contain views to or along the ocean. The Otay Mesa-Nestor Community Plan identifies view opportunities to the Otay River Valley, the Western Salt Company's building, salt ponds and salt stacks, and the downtown San Diego skyline across San Diego Bay. The length of 13th Street (which fronts the project site on the west) and the terminus of Georgia Street (across Palm Avenue to the southeast of the project site) are both identified as view corridors to support these view opportunities in the Otay Mesa-Nestor Community Plan. The project will be developed entirely within the property boundaries of the site and will not obstruct, degrade or diminish these scenic view opportunities from adjacent public right-of-way areas. The new development will not interfere with any designated public view corridor, thereby enhancing and protecting public views to and along the scenic areas.

B. THE PROPOSED COASTAL DEVELOPMENT WILL NOT ADVERSELY AFFECT ENVIRONMENTALLY SENSITIVE LANDS.

The project is requesting a Coastal Development Permit and Site Development Permit to allow construction and operation of an 8,928-square-foot car wash with convenience store and office uses to be located on a vacant 0.94 -acre site. Land to the west and north of the site consists of mixed residential and commercial development, and the project site is surrounded by commercial development to the south. The L-shaped project site lies adjacent to the Multi-Habitat Planning Area (MHPA) along its eastern property line, and sloping down easterly from 13th Street includes a portion of the site mapped within the 100-year floodplain designation. Though the project proposes development in Zone A of a Special Flood Hazard Area (SFHA) where there are no published base flood elevations for this site, the applicant will be required to develop those elevations per the methodology set forth in Managing Floodplain Development In Approximate Zone A Areas, A Guide For Obtaining And Developing Base (100-Year) Flood Elevations, April 1995, Federal Emergency Management Agency (FEMA) prior to issuance of a grading permit. As a condition of the development permit, once the base flood elevations have been determined and approved by the City Engineer, all structures built within the SFHA must have the lowest floor elevated 2 feet above the base flood elevation at that location. Though the site does not yet have a FEMA certified base flood elevation, adjacent study areas to the east of the subject property (Zone AE) lists a flood elevation of 11 feet MSL, and the study area to the northwest (Zone AE), lists a flood elevation of 6 feet MSL. It is estimated that the project site base flood elevation is approximately 10 feet MSL, which is below the finish floor elevation of the proposed building (FF=18.5 feet MSL), and meets the criteria for finished floor elevations to be a minimum of 2 feet above the flood elevation.

A Mitigated Negative Declaration No. 155821 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines, which identified the potential for adverse impacts related to Noise, Historical Resources (Archaeology) and Land Use

(MSCP/MHPA). Due to the site's adjacency to the MHPA, the project is required to utilize mitigation measures in the form of Land Use Adjacency Guidelines in order to avoid significant environmental impacts to the MHPA. Mitigation measures are detailed in Section V of the Mitigated Negative Declaration No. 155821, and include shielding of the MHPA area from light and noise through fence and wall construction along the easterly property boundary, and mechanical equipment utilized within the project is subject to noise limitations. Drainage has been diverted away from the MHPA area, and the retaining/crib wall lying adjacent to the MHPA will be planted with appropriate native plant species. The project site does not provide connectivity between areas of open space and no impacts to wildlife corridors will occur. The Owner/Permittee has agreed to all conditions in the MMRP and the City will monitor compliance with these conditions. Therefore the proposed coastal development will not adversely affect environmentally sensitive lands.

C. THE PROPOSED COASTAL DEVELOPMENT IS IN CONFORMITY WITH THE CERTIFIED LOCAL COASTAL PROGRAM LAND USE PLAN AND COMPLIES WITH ALL REGULATIONS OF THE CERTIFIED IMPLEMENTATION PROGRAM.

The project is requesting a Coastal Development Permit and Site Development Permit to allow construction and operation of an 8,928-square-foot car wash with convenience store and office uses to be located on a vacant 0.94 -acre site. The Otay Mesa-Nestor Community Plan designates the site for Community-Commercial land use. The project will support the Otay Mesa-Nestor Community Plan recommendations and guidelines for commercial development by ensuring the building street facades have three-dimensional relief to provide visual interest at the street level, and by incorporating pedestrian circulation and bicycle racks on site to facilitate residents commuting from nearby residential areas to the convenience store. To ensure compatibility with the adjacent residential and open space areas, the project provides setbacks and landscaped buffers, and will utilize earth-tone colored, textured concrete blocks for the planted crib wall adjacent to the MHPA. The development will be in conformity with the Otay Mesa-Nestor Community Plan/LCP and complies with the regulations of the certified Land Development Code.

D. FOR EVERY COASTAL DEVELOPMENT PERMIT ISSUED FOR ANY COASTAL DEVELOPMENT BETWEEN THE NEAREST PUBLIC ROAD AND THE SEA OR THE SHORELINE OF ANY BODY OF WATER LOCATED WITHIN THE COASTAL OVERLAY ZONE THE COASTAL DEVELOPMENT IS IN CONFORMITY WITH THE PUBLIC ACCESS AND PUBLIC RECREATION POLICIES OF CHAPTER 3 OF THE CALIFORNIA COASTAL ACT.

The project is requesting a Coastal Development Permit and Site Development Permit to allow construction and operation of an 8,928-square-foot car wash with convenience store and office uses to be located on a vacant 0.94 -acre site. Although adjacent to the MHPA open space area and in the vicinity of the San Diego Bay, and located between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone, the project will not interfere with public access or in any way hinder public utilization of surrounding public recreation areas according to the policies of Chapter 3 of the California Coastal Act.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Site Development Permit No.730066 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Coastal Development Permit No. 554575 and Site Development Permit No. 730066, a copy of which is attached hereto and made a part hereof.

_____

Patricia J. FitzGerald
Development Project Manager
Development Services

Adopted on: May 20, 2010

JO#: 23430870

City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: ☐ Neighborhood Use Permit ☒ Coastal Development Permit ☐ Neighborhood Development Permit ☐ Site Development Permit ☐ Planned Development Permit ☐ Conditional Use Permit ☐ Variance ☐ Tentative Map ☐ Vesting Tentative Map ☐ Map Waiver ☐ Land Use Plan Amendment • ☐ **Other** _____

Project Title Palm Avenue Car Wash

Project No. *For City Use Only* 155821

Project Address:
1440 Palm Avenue

Part I - To be completed when property is held by Individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of **all** persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached ☐ **Yes** ☐ **No**

Name of Individual (type or print):
MARK KRAUS
☒ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency
Street Address:
14704 Camino Vista Estrellado
City/State/Zip:
Del Mar CA 92014
Phone No: (858) 353-0499 Fax No:
Signature: Date: 3/28/08

Name of Individual (type or print):
PAUL MAGNOTTA
☒ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency
Street Address:
3204 72nd Ave SE
City/State/Zip:
Mercer Island WA 98040
Phone No: 206 499 2688 Fax No:
Signature: Date: 3/28/08

Name of Individual (type or print):
MARNIE MAGNOTTA
☒ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency
Street Address:
3204 72nd Ave SE
City/State/Zip:
Mercer Island WA 98040
Phone No: 206 499-2688 Fax No:
Signature: Date: 3/28/08

Name of Individual (type or print):
☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency
Street Address:
City/State/Zip:
Phone No: Fax No:
Signature: Date:

OTAY MESA-NESTOR COMMUNITY PLANNING GROUP
MEETING MINUTES
8 July 2009

Members Present:
Dist. 1 John Swanson
Dist. 2 Sam Mendoza
Dist. 3 Ed Abrahim
Dist. 4 Diane Porter
Dist. 5 Diego Padilla
Dist. 6 Maria Mendoza
Dist. 7 Ira Briggs
Dist. 9 Vinnie Thoms
Dist. 10 Bob Mikloski
Dist. 12 Carlos Sanchez
Dist. 14 Wayne Dickey
Dist. 15 Walt Zumstein
Dist. 16 Steve Schroeder

Members Excused Absent:
Dist. 8 Myrna Briggs
Dist. 11 Marie Johnson
Dist. 13 Daniel Wagner

Guests Present:
Nick Inzunza, resident
Amenda Caniya, Resident
Kurt Farrington, Resident
Jacki Farrington, Resident
Laura Nolan, Resident
Joan Schneider, Resident
Brian Longmore, Guest
Tom Drake, Resident
Julianne Wright, Residnet
Peter Mizhinton, Guest
Joann Dondevalcova, Resident
Bobby Hicks, Resident
Floyd Briley, Resident
Cherie Tedde, Resident
Michael Bush, Resident
Debbie Bush, Resident
Marcanta Sanchez, Guest
Whitney Benzian, Guest
Yvonne Decarlo, Resident

1. 6:30 p.m. Meeting called to order by Vinnie Thoms, Vice-Chair, at the Otay Mesa Branch Library. She welcomed all Board members and the Community to the meeting.

2. Approval of April 8, 2009 minutes – Motion by Bob Mikloski to approve the minutes as corrected. Motion passed 13-0-0.

3. Non-Agenda Public Comments: Nick Inzunza, Bob Hicks, Jackie Farrington.

4. Council District 8 Report: Whitney Benzian. He informed the group that a vacant and abandoned house at 27th Street and Iris Avenue will be demolished soon. Also, he reported that a large cleanup project had been completed with the removal of over 7,000 tires from the Tijuana River Valley. He also reported that sidewalks and streets will be repaired in the Nestor area, using Stimulus funds and Proposition 1a funds. He said the City of San Diego has a policy to form a criteria list to schedule which the sidewalks and streets will be repaired, and citizens can call the District 8 office for more info. His office will report on the replacement Parks & Recreation staff member at the next Planning Group meeting.

5. SDPD Community Relations Officer Bertha introduced Carol Westfall as the new prosecutor for the Southern Division. Ms. Westfall said that she handles quality of life issues in this area, such as graffiti, gang activity, and transients, etc.

6. **Action Item:** T-Mobile - Duffer Residence, Project No. 180623, application to continue the use of a wireless communication facility consisting of 3 antennas concealed inside domes on a residential parcel. Debra Depraty-Gardner of T-Mobile presented the project, which consists of 3 existing antennas on the rear slope of this lot. If approved, T-Mobile will be issued a 10 year permit. She said that the directional cellular antennas are pointed away from the residence, and comply with FCC safety standards. Diane Porter moved to approve the antennae if they are painted green, as requested by the City of San Diego staff. The motion passed 9-1-1. Diego Padilla abstained; he said he does not like radiation.

7. **Action Item:** 76 Gas Station, 4360 Palm Ave, Project No. 176464, Application for an Alcohol License at the existing mini-mart in the 76 Gas Station. Applicant: Brian Longmore (858) 603-9478. The mini-mart wants to add beer and wine sales. They will follow ABC regulations, and stop sales at midnight. They said that need to amend the CUP for this commercial center, and will seek ABC approval if they receive an amended CUP from the City of San Diego. Diego Padilla said that no alcohol sales are allowed within 1000 feet of a park or school. This question will be researched by the applicant. Joan Schneider, audience member, said that this original Permit came before the OMNCPG before, and at that time, they agreed to only sell snacks there, and not apply for a liquor license. John Swanson moved to continue item for 30 days, until these issues are researched, the motion passed 11-1-1. Diego Padilla abstained; he said the board must first consider that the applicant was previously told any expansion would not be approved.

8. **Action Item:** Palm Ave Carwash, 1440 Palm Ave., Project No. 155821, Project recommendation postponed by OMNCPG for 30 days until this meeting, to re-consider an Application for a Coastal Development Permit to construct a convenience store and carwash at 1440 Palm Ave in the CC-4-2 Zone. Applicant: Mark Kravis (858) 353-0499. The applicant returned to the Planning Group to answer questions raised by the Group and the community, and the following information was presented: 24 parking spaces will be provided, 46,000 cars pass by daily on Palm Avenue, 200 cars would be using this facility/daily, there is a drainage swale for runoff, project will meet City required noise abatement levels, developer will ask the City for red curbs on 13th Street as a condition of approval, water is 80% plus reclaimed by onsite machinery, developer will raise wall 2 feet higher on Bayside Villas property line, 70% of customer cars will exit carwash on 13th Street; neighbors would like a stop sign at this exit, employees park on and off site, Bayside Villas HOA Board of Directors have not approved or disapproved this project. Diane Porter moved to approve the car wash with a red zone on the curb along 13th Street, Wayne Dickey seconded, motion carries by one vote, 7/6/0.

9. **Chair's Report:** The San Diego Housing Commission will consider the purchase of the Hollister property for apartments at a meeting on June 10, 2009. Information on the time and place of the meeting was offered to anyone interested in attending this meeting.

10. **Long Range City Planner's Report:** None

11. **Other Business/Announcements:** None

12. **Adjournment:** 8:04 p.m.

Respectively submitted by John C. Swanson, Secretary

Next meeting is August 12, 2009 at 6:30 p.m. at the Otay Mesa Branch Library.

View Corridors Map 9
Otay Mesa-Nestor Community Plan

View Corridor or View and Access Point		Location
San Diego Bay: View Corridor		A. 13th Street B. Georgia Street C. Alley between Georgia Street and 14th Street D. 14th Street E. Alley between 14th Street and Granger Street F. Granger Street G. 16th Street H. Thermal Avenue I. Saturn Boulevard
Tijuana River Valley: View Corridor		A. Bubbling Well Drive B. Thermal Avenue C. Leon Avenue/Tremaine Way D. Saturn Boulevard E. Rodear Road F. Hollister Street G. International Road H. Valentino Street and Bluehaven Court
Otay River Valley: View and Access Points		A. Palm Avenue Transit Center/Park and Ride B. Midway Baptist Church C. Palm Avenue D. Montgomery High School E. Cochran Avenue F. Finney Elementary School G. Murietta Circle
Tijuana River Valley: View and Access Points		A. Servando Avenue

City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101
(619) 446-5210
THE CITY OF SAN DIEGO

Development Permit/ Environmental Determination Appeal Application

FORM **DS-3031** MARCH 2007

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:
- ☐ Process Two Decision - Appeal to Planning Commission
- ☑ Process Three Decision - Appeal to Planning Commission
- ☐ Process Four Decision - Appeal to City Council
- ☐ Environmental Determination - Appeal to City Council
- ☐ Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant *Please check one* ☐ Applicant ☐ Officially recognized Planning Committee ☑ "Interested Person" (Per M.C. Sec. 113.0103)

Name				
Timothy J. Carmel				
Address	**City**	**State**	**Zip Code**	**Telephone**
1410 Marsh Street	San Luis Obispo	CA	93401	805.546.8785

3. Applicant Name *(As shown on the Permit/Approval being appealed). Complete if different from appellant.*

Paul D. Magnotto, Marnie A. Magnotto, Mark Lewis Kravis (Owners/Permittees)

4. Project Information Permit/Environmental Determination & Permit/Document No.:	Date of Decision/Determination:	City Project Manager:
Coastal Dev. Permit 554575/Site Dev. Permit.730066	March 24, 2010	PJ Fitzgerald

Decision (describe the permit/approval decision):
On March 24, 2010 the City certified the Mitigated Negative Declaration and approved a Coastal Development Permit and a Site Development Permit for the Palm Avenue Carwash.

5. Grounds for Appeal ***(Please check all that apply)***
- ☑ Factual Error (Process Three and Four decisions only)
- ☐ Conflict with other matters (Process Three and Four decisions only)
- ☑ Findings Not Supported (Process Three and Four decisions only)
- ☑ New Information (Process Three and Four decisions only)
- ☐ City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (*Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)*

The manner in which the City has described, processed and analyzed this project fails to meet the basic legal requirements of the California Environmental Quality Act. The City must perform additional legally adequate environmental analyses before it can move forward with this project. The Initial Study and Mitigated Negative Declaration (IS/MND) are factually inaccurate and legally inadequate, and the project cannot be legally approved without, at a minimum, preparation and consideration of a new initial study, including an accurate project description and a revised and recirculated IS/MND with appropriate and adequate mitigation measures addressing impacts from the project's significant noise, light, cultural resource, air quality, traffic/circulation, water quality/hydrology, biological and aesthetic impacts. These un-studied and un-mitigated impacts are described in further detail in the attached letter dated March 23, 2010.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature: _____ Date: March 31, 2010

RECEIVED
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DEVELOPMENT SERVICES

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

CARMEL & NACCASHA LLP
ATTORNEYS at LAW

TIMOTHY J. CARMEL [1]
ZIYAD I. NACCASHA [2]
MICHAEL M. MCMAHON
DONALD D. WILSON
DAVID H. HIRSCH
ARTHER R. MONTANDON
BRIAN J. BAKER [3]
JEANNIE D. GOSHGARIAN [3]
ERICA A. STUCKEY

OF COUNSEL
MARA J. MAMET
STEVEN L. SIMAS

[1] ALSO ADMITTED IN NEVADA
[2] ALSO ADMITTED IN ILLINOIS
[3] ALSO ADMITTED IN WASHINGTON

PHYSICAL ADDRESS:
1410 MARSH STREET
SAN LUIS OBISPO, CA 93401

1908 SPRING STREET
PASO ROBLES, CA 93446

MAILING ADDRESS:
P.O. BOX 15729
SAN LUIS OBISPO, CA 93406

TEL: 805.546.8785
FAX: 805.546.8015

www.carnaclaw.com

March 23, 2010

Via Golden State Overnight, Facsimile, and E-mail

tcarmel@carnaclaw.com

Re: Palm Avenue Carwash

Dear City of San Diego Hearing Officer:

This office represents residents who live near the proposed Palm Avenue Carwash Project (the "Project" or "commercial carwash") site located at 1440 Palm Avenue, San Diego ("City"), with regard to your consideration and certification (adoption) of a proposed mitigated negative declaration for the Project. This letter is intended to address the many substantive and procedural flaws in the environmental review and analysis for the Project and to urge the City to perform additional and legally adequate environmental analysis before considering Project approval.

At the onset, it should be noted that the Otay Mesa-Nestor Community Planning Group (which voted 7-6 to recommend approval of the Project) considered the Project in an environmental vacuum, without the Initial Study and Mitigated Negative Declaration ("IS/MND"), comments, or responses. Attached hereto is an analysis dated March 4, 2010 from environmental planning consultants, Terra Nova Planning & Research, Inc., (the "TN Analysis") identifying the many omissions, errors and inaccuracies contained in the IS/MND for the Project, with an emphasis on the major land use conflicts and unidentified environmental impacts of the Project. The TN Analysis clearly and unambiguously establishes that this Project may have a significant impact on the environment. Simply stated, the manner in which the City has described, processed and analyzed the Project fails to meet basic legal requirements. The City cannot ignore the need for a new initial study in light of the inaccurate Project description and unevaluated and unmitigated environmental impacts.

We object to the legal adequacy and inaccuracy of the IS/MND, and strongly believe that the Project cannot be legally approved without, at a minimum, preparation and consideration of a new initial study, including an accurate Project description and a revised and recirculated IS/MND with appropriate and adequate mitigation measures addressing impacts from the Project's potentially significant noise, light, cultural resource, air quality, traffic/circulation, water quality/hydrology, and aesthetic impacts.

I. THE INITIAL STUDY/ MITIGATED NEGATIVE DECLARATION IS LEGALLY INADEQUATE AND INACCURATE AND THE RECORD FOR THE PROJECT REQUIRES THE PREPARATION OF A REVISED ENVIRONMENTAL ANALYSIS

An accurate Project description is the essence of an informative and legally sufficient environmental evaluation under CEQA, the cornerstone that dictates the course of all subsequent analysis and mitigation. *County of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185. The Project description circulated for public review was fundamentally flawed in that it failed to accurately or adequately describe the Project setting and surrounding residential land uses, and failed to even mention critical elements of the Project, such as the elimination of the existing masonry wall separating adjacent residential uses, the change in ingress to 13th Street and, the existence of sensitive receptors right next to the Project. The existence of a residential neighborhood within feet of the Project and the fact that the Project is surrounded by predominantly residential uses on three (3) sides is not clearly disclosed in the section describing the surrounding land uses and Project setting.

II. DEFICIENCIES IN THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

There are several critical impact categories in which the "no" box is checked without explanation. The IS/MND contains no reasoned factual analysis in several impact categories, only broad conclusory statements. *Citizens Association for Sensible Development v. Inyo County* (1985) 172 CA 3d 151. The few categories that have any source documents indentified lack any meaningful factual analysis, or are premised on faulty fact bases and therefore contain mitigation measures that are weak and in several cases, illegally deferred mitigation. *Sundstrom v. County of* Mendocino (1988) 202 Cal. App. 3d 296.

Some of the more notable problems with the IS/MND are as follows:

Noise – The noise analysis applies incorrect regulatory standards for residential uses. Traffic generated noise is not considered. The noise analysis also fails to take into account the removal of the existing solid masonry wall, currently separating the site from adjacent residences.

Cultural Resources – Although at least ten (10) archeological sites have been located within a 1 mile radius of the Project, and significant cultural material has been located onsite there is no requirement for a comprehensive pre-construction survey.

Traffic/Circulation – The Project description incorrectly identifies access points and this mistake is carried through the entire traffic analysis; 13th Street ingress is not analyzed; because of the approximate 1933 additional vehicle trips to 13th Street, this is both a capacity and Safety issue.

Air Quality/Pollution – There is no air quality analysis, only conclusory statements that the Project "would not be large enough" to create significant air quality impacts. The adjacent sensitive receptors (residents) are not considered (nor are the residents even considered sensitive receptors). There is no assessment of CO hotspots, despite the thousands of vehicle trips generated by the Project and lines of cars idling for prolonged periods of time a stones throw from residences.

Greenhouse Gases – There is no Greenhouse Gas analysis, as required by law. The City comment simply indicates the ±9000 sq.ft. commercial car wash Project is too small to look at this issue.

Water Quality/Hydrology – There is no analysis of the site's special water and hydrological conditions, especially the use of solvents and soaps in high concentrations, immediately adjacent to sensitive biological resources found in the Multiple Species Conservation Program, Multi-Habitat Planning Area and San Diego Bay Natural Wildlife Refuge. Because the proposed Project is located in a Special Flood Hazard Area, with no published flood base elevations, the potential for flood water impacts to the Multiple Species Conservation Program, Multi-Habitat Planning Area and San Diego Bay Natural Wildlife Refuge with many sensitive species throughout, these potential significant and deadly impacts must be analyzed.

Aesthetics – There is no analysis of aesthetic impacts, simply conclusory statements. There is no discussion regarding aesthetic impacts to the adjacent residents from the proposed two (2) story structures on raised building pads, the impact of light and glare from cars parked facing residences was not discussed or considered. In truth the City's residents, living adjacent to the Project and otherwise are wholly ignored in the IS/MND, which is nothing short of unconscionable.

III. CONCLUSION.

This Project will potentially have a number of unmitigated, significant environmental impacts if the City continues to rely on a flawed Initial Study and Mitigated Negative Declaration. The City is misusing the environmental review process and undercutting the public involvement, information, scrutiny and debate the California Environmental Quality Act and this Project requires. There is substantial evidence in the record that this Project may have a significant impact on the environment; we therefore, respectfully request that you not adopt the Mitigated Negative Declaration and require more accurate and complete environmental analysis before considering Project approval.

Sincerely,
Carmel & Naccasha, LLP

Timothy J. Carmel

TJC:hp
Attachment

TERRA NOVA PLANNING & RESEARCH, INC.

March 4, 2010

Mr. Philip Lizzi
Environmental Planner
City of San Diego
Development Services Center
1222 First Avenue
MS 501
San Diego, CA 92101

RE: Project Number 155821, Palm Avenue Car Wash

Dear Mr. Lizzi:

We have been asked by Mr. Tim Carmel to review the Initial Study and associated documents for the above-referenced project. We have a number of concerns about the adequacy of the document, as enumerated below. We believe that the document does not adequately address the requirements of the California Environmental Quality Act (CEQA), and requires revision and recirculation.

Project Description & Environmental Setting

The project description states that the project will take access from Palm Avenue. The site plan provided in the Initial Study, however, clearly shows that access to the site will only occur on 13th Street, and egress only will occur on Palm Avenue. The bulk of the activity for the project will therefore occur on a local roadway, immediately adjacent to residential development. The surrounding area is not, as stated in the Initial Study, "commercial in nature." The Initial Study should clearly state that the project is proposed adjacent to existing, established residential development and a sensitive biological preserve. Commercial development occurs only to the west of the site.

The project description should state that the existing masonry wall along the north property line is to be demolished, and replaced by a wood fence. The noise and light/glare protection provided by the masonry wall to the residential development to the north must be clearly stated.

Aesthetics/Neighborhood Character

As stated above, the Initial Study incorrectly characterizes the neighborhood as Commercial in nature. The project, however, proposes a two story commercial building within 60 feet of existing two story residential units. No analysis of the impacts to the residential development are provided, including the impact to these units of evening

traffic, headlights, and business activity, particularly since all the project parking spaces will occur immediately adjacent to the residential units. Since the project proposes to remove the masonry wall, and replace it with a wood fence, the impacts of the reduction in buffer must be assessed.

In addition, the proposed project, because of its location in a flood zone, will be required to raise building pads a minimum of 2 feet above grade. The site plans and elevations do not reflect this increased height. It can be assumed that the building will actually extend to a height of over 50 feet. The increased height should be analyzed in the context of adjacent residential development.

The Initial Study addresses only light and glare generated by building finishes. In this case, this analysis is insufficient. The presence of sensitive receptors immediately to the north, and the planned removal of the existing masonry wall, must be analyzed, particularly given the hours of operation proposed by the project, and the proximity of units with windows on the southern boundary of the residential project.

Air Quality

The Initial Study does not meet even the most basic CEQA requirements for air quality analysis. First, the proposed project will generate almost 3,000 trips adjacent to a residential project. Second, the Initial Study falsely states that the project does not occur near any sensitive receptors – residents are absolutely sensitive receptors. Third, the project trips will generate air emissions which must, at the very least, be quantified, and must also be compared to quantified thresholds of significance promulgated by the San Diego County Air Pollution Control District. All these calculations must be completed for grading emissions, particularly since the site will be filled; construction emissions; and operational emissions. Further, given the idling which will occur as cars are processed through the site, an analysis of the potential for pollutant concentrations must also be completed. As currently drafted, the Initial Study is inadequate, and must be supplemented with sufficient air quality data to enable an analysis of the potential air quality impacts associated with the project.

Greenhouse Gases

For the last several years, greenhouse gas (GHG) analysis has been included in Initial Studies, based on the requirements of AB32, advisories and guidance of the State Attorney General's Office, publications of the State Office of Planning and Research (OPR), and a now considerable list of court cases. In addition, the Natural Resources Agency adopted revised CEQA Guidelines in December, 2009 which added GHG analysis to the CEQA checklist. The Initial Study includes no mention of GHGs, and in no way considers how the development of the proposed project will impact the City's ability to meet the requirements of AB32. At a minimum, the analysis must include quantified GHG emissions for construction, operation, water and energy production, and meet the basic requirements of OPR's Technical Advisory, "Addressing Climate Change Through California Environmental Quality Act Review." Until such time as the Initial Study is revised to include GHG analysis, it cannot be considered adequate.

Land Use

The analysis under land use focuses entirely on the adjacency of the project to the MHPA. No analysis of the impacts of a car wash on the adjacent residential development is provided. At a minimum, the Initial Study must consider the layout of the parking spaces, pointing directly into the residential development; the operation of the car wash in the evenings, when it will impact noise levels to this sensitive receptor; the need for buffers between an intense commercial use and a two-story residential use.

The Initial Study does not adequately analyze the requirements of the Multi-Species Conservation Plan as they relate to Land Use Adjacency Guidelines. The document states that due to the project's adjacency to the MHPA, "all proposed lighting shall be directed away from the MHPA, and shielded if necessary." However, no lighting plan is provided, and no photometric analysis has been completed. We are unable to determine if the project complies with the requirement. The City cannot approve a project when it cannot determine if the project complies with its standards. Simply stating that the project will be required to comply amounts to deferred mitigation, which is expressly prohibited in CEQA.

Noise

The noise study assumes the wrong Municipal Code standard for the residential development to the north. The City's standard for R-2 properties, or for project of 22 units per acre or less, is 55 dBA from 7 AM to 7 PM; 50 dBA from 7 PM to 10 PM; and 45 dBA from 10 PM to 7 AM. The property to the north of the site is zoned R-2-5. The noise impacts associated with the proposed project are therefore significant during both the evening and nighttime hours. Neither the noise study nor the Initial Study mitigate the noise impacts associated with the residential project to the north. As a result, the noise impacts are significant and either an EIR must be prepared, or the noise study and Initial Study must be revised to include adequate mitigation measures, and recirculated.

The noise analysis does not describe the assumptions used in analyzing the noise impacts at the adjacent residential project. The noise analysis states that the noise level resulting from the car wash blower at the property line will be 52.0 dBA. However, it is safe to conclude that this analysis assumes that the existing solid masonry wall is to remain, since the monitoring was done under current conditions (with the wall in place). As clearly shown on the site plan, the masonry wall is to be removed, and replaced by a wood fence. The wood fence will provide considerably less noise attenuation than the masonry wall. The noise analysis must be revised to accurately describe assumptions and conclusions as they relate to the adjacent residential uses.

The noise analysis discounts the traffic analysis prepared for the site, and instead "our past experience in noise analysis of on-site traffic noise was mainly applied in this study." This is not acceptable. There are quantified, recognized models established for the analysis of noise associated with traffic on a site. The project's high traffic volumes

and extended idling times must be quantified scientifically, not based on "past experience."

The noise analysis is inconsistent. On page 8, it requires that the walls of the car wash tunnel be constructed of 8" thick masonry (solid construction, no openings, or gaps) for a distance of 120 feet. On page 11, the noise analysis states that windows are allowed, if a minimum STC Rating of 29. As the noise mitigation for the blower is more conservative, it must apply over the mitigation for traffic noise. Since the site plan proposes windows on the east side of the tunnel, the project design is inconsistent with the noise impact analysis, and impacts to the salt pond will be unmitigated.

Traffic and Circulation

As stated above, the project description incorrectly identifies access to the site as being on Palm Avenue. The traffic study prepared for the site only analyzes the impacts to Palm Avenue, on the basis that it is a General Plan Road. However, in this case, the analysis must be extended to include the impacts of the proposed project on 13th Street, since the only ingress to the project will be on 13th Street. The capacity of a sub-collector, as identified in Table 2 of the traffic study, is 2,200 trips per day. The proposed project will generate a total of 2,842 daily trips.

If it is assumed that all of the inbound trips will occur on 13th Street (1,421 trips), and 36% of the outbound trips (512 trips, based on the peak hour traffic assignment shown in Figure 8), then 13th Street will carry 1,933 additional trips, above and beyond what it carries today. Since 13th Street is not analyzed in the traffic study, it is not possible to determine what its current capacity is. However, based on the peak hours analysis contained in the appendix, and assuming that peak hour represents approximately 12% of daily trips (an accepted percentage in standard traffic methodology), 13th Street currently carries at least 3,800 trips per day. The proposed project will therefore increase volumes on 13th Street by over 50%, and the resulting traffic appears to exceed capacity for this local roadway. Given the residential development occurring on 13th Street, the impact of a 50% increase in traffic on safety cannot be ignored.

The argument made in the traffic study that City requirements for traffic analysis were used is not sufficient under CEQA. The City cannot rely on City standards if the potential for an impact exists. The traffic analysis must include segment analysis for 13th Street, to determine whether it will operate at acceptable levels under current plus project conditions. In addition, the analysis must be prepared in context with the land uses to the north, which will be significantly impacted by the proposed project trips.

It must also be noted that the number of peak hour trips shown in Table 3 are not equal to the peak hour trips shown in Figure 8, and should be. We are concerned that this discrepancy is indicative of the analysis as a whole.

Water Quality

The Water Quality Technical Report prepared for the project relies on standardized requirements for projects in general, and does not include an analysis of the special conditions which the project will generate. Specifically, the study does not include analysis of the impacts of solvents and soaps which will be used in the car wash, and their suitability for disposal in a bio-swale in high concentrations. Given the project's location adjacent to a biologically sensitive preserve, the potential for contamination of the water resources within that preserve must be considered. It may be necessary, once properly analyzed, to supplement the bio-swale with additional facilities to assure that the project-specific solvents and chemicals which will necessarily occur in nuisance and surface water on the site do not impact surrounding groundwater. Until this analysis is completed adequately, the Initial Study is incomplete, and the impacts associated with water quality have not been addressed under CEQA.

Conclusion

As detailed above, the Initial Study is incomplete and cannot provide the City's decision makers with sufficient information with which to make an informed decision as regards the environmental impacts of this project. The Initial Study must be redrafted, supplemented, and recirculated, in order to afford the public an opportunity to truly understand the project's impacts. Until that time, the City cannot take action on the project.

Sincerely,

Nicole Sauviat Criste
Principal

Cc: Mr. Tim Carmel

CARMEL NACCASHA LLP
ATTORNEYS at LAW

TIMOTHY J. CARMEL [1]
ZIYAD I. NACCASHA [2]
MICHAEL M. MCMAHON
DONALD D. WILSON
DAVID H. HIRSCH
ARTHER R. MONTANDON
BRIAN J. BAKER [3]
JEANNIE D. GOSHGARIAN [3]

OF COUNSEL
MARA J. MAMET
STEVEN L. SIMAS
KRISTIN M. FINEFROCK

[1] ALSO ADMITTED IN NEVADA
[2] ALSO ADMITTED IN ILLINOIS
[3] ALSO ADMITTED IN WASHINGTON

PHYSICAL ADDRESS:
1410 MARSH STREET
SAN LUIS OBISPO, CA 93401

1908 SPRING STREET
PASO ROBLES, CA 93446

MAILING ADDRESS:
P.O. BOX 15729
SAN LUIS OBISPO, CA 93406

TEL: 805.546.8785
FAX: 805.546.8015

WWW.CARNACLAW.COM

March 31, 2010

Via Courier

tcarmel@carnaclaw.com

TRANSMITTAL NOTE

TO: City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101
Phone: 619.446.5210

RE: City of San Diego
Palm Avenue Carwash
Development Permit/ Environmental Determination Appeal Application

☒ Enclosed please find the following documents:

- executed Development Permit/ Environmental Determination Appeal Application;
- letter dated March 23, 2010 regarding the Palm Avenue Carwash; and
- check number 6294 dated March 31, 2010, payable to the City of San Diego in the amount of one hundred dollars ($100).

Thank you,

CARMEL & NACCASHA, LLP

Timothy J. Carmel, Esq.

Enclosure

Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 533-5800

DATE: October 27, 2009

TO: Mary Wright, Planning Division Deputy Director, City Planning & Community Investment

FROM: City Attorney

SUBJECT: Community Planning Groups Review of CEQA Documents

INTRODUCTION

The City Planning & Community Investment Department has requested an opinion as to whether Community Planning Groups [CPGs] must consider California Environmental Quality Act [CEQA] documents prior to making recommendations on development projects. Two CEQA Guidelines sections govern the duties of advisory bodies to review and consider environmental documents prior to making recommendations on projects, CEQA Guidelines sections 15025 and 15074.[1] Some have argued that CEQA Guidelines section 15074 requires that CPGs review CEQA documents before making recommendations on development projects.

QUESTION PRESENTED

Must CPGs review CEQA documents prior to making recommendations on development projects?

SHORT ANSWER

CPGs are not required by law to review CEQA documents prior to making recommendations on development projects.

---

[1] All references to CEQA Guidelines are to the current California Code of Regulations, title 14, sections 15000-15387. The CEQA Guidelines are afforded "great weight" by the courts. *Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal. 3d 376, 391 n. 2 (1988).

BACKGROUND

I. CEQA

The first CEQA Guidelines section to treat advisory body review of CEQA documents is section 15025, which is found within Article 2, entitled "General Responsibilities." This Guidelines section governs what specific functions the City may delegate to its staff to administer CEQA. CEQA Guidelines section 15025 states that "[w]here an advisory body such as a planning commission is required to make a recommendation on a project to the decisionmaking body, the advisory body shall also review and consider the EIR or Negative Declaration in draft or final form." CEQA Guidelines § 15025(c).

The second CEQA Guidelines section concerning advisory body review is found in Article 6, which governs the negative declaration process. There, CEQA Guidelines section 15074 states that "[a]ny advisory body of a public agency making a recommendation to the decisionmaking body shall consider the proposed negative declaration or mitigated negative declaration before making its recommendation." CEQA Guidelines § 15074(a).[2] Note that this CEQA Guidelines section concerns only negative declarations; it does not mention EIRs.

II. COUNCIL POLICY 600-24

City Council Policy 600-24 recognizes CPGs and governs their conduct. The Policy's Background statement reads:

> Community planning groups have been formed and recognized by the City Council to make recommendations to the City Council, Planning Commission, City staff, and other governmental agencies on land use matters, specifically, concerning the preparation of, adoption of, implementation of, or amendment to, the General Plan or a land use plan when a plan relates to each recognized community planning group's planning area boundaries. Planning groups also advise on other land use matters as requested by the City or other governmental agencies.

See Council Policy 600-24 Background. This statement establishes that the primary purpose of CPGs is to assist the City with community plans and other planning activities. It also demonstrates that reviewing a development project is a secondary function of CPGs that they perform "as requested by the City." *Id.* Furthermore, the Council Policy does not require CPGs to make recommendations on all development projects. The Policy's language only states that CPGs "*advise* on other land use matters *as requested* by the City or other governmental agencies." *Id.* (emphasis added).

---

[2] Neither CEQA Guidelines section treats exemptions from CEQA. Therefore, there is no basis for asserting that CPGs are required to review determinations that a project is exempt from CEQA.

That the primary purpose of CPGs is to assist the City with planning issues, rather than development project review, is further demonstrated by the duties imposed by the Policy on CPGs and their members. According to the Policy: "It shall be the duty of a recognized community planning group to cooperatively work with the Mayor's staff throughout the planning process, including but not limited to the formation of long-range community goals, objectives and proposals or the revision thereto for inclusion in a General or Community Plan." Council Policy 600-24 art. VI, section 1. This section, governing the duties of CPGs, makes no mention of development project review.

ANALYSIS

I. CEQA GUIDELINE SECTION 15025 DOES NOT REQUIRE THAT CPGS *REVIEW CEQA DOCUMENTS PRIOR TO MAKING RECOMMENDATIONS* ON DEVELOPMENT PROJECTS.

The mandates of CEQA Guidelines section 15025 do not apply to CPGs. Two elements of CEQA Guidelines section 15025 renders its requirement that advisory bodies review CEQA documents prior to making recommendations on projects inapplicable to CPGs. First, CEQA Guideline section 15025's requirement applies only to an "advisory body such as a planning commission . . . ." CEQA Guidelines § 15025(c). As discussed below, CPGs are not advisory bodies like planning commissions. Second, CEQA Guidelines section 15025 requires CEQA review only "[w]here an advisory body . . . is required to make a recommendation on a project." *Id.* As mentioned above, and discussed below, CPGs are not required to make recommendations on all development projects.

A. CEQA Guidelines Section 15025 Does Not Apply Because CPGs Are Not Advisory Bodies Under this Section.

CEQA Guidelines section 15025 qualifies an "advisory body" to which its requirements apply with the phrase "such as a planning commission." CPGs, while they may be advisory bodies, differ from a planning commission in a number of important respects. These significant differences render the requirements of CEQA Guidelines section 15025 inapplicable to CPGs.

CPGs have no delegated authority to take actions on behalf of the City. Council Policy 600-24 Background. In contrast, the City's Planning Commission, as with most other planning commissions throughout the state, has been delegated significant decision making authority. Cal. Gov't Code § 65101; San Diego Charter § 41(c); SDMC § 111.0202. Not only does the City's Planning Commission decide many land use matters outright, it also hears appeals of matters decided by City staff, and is required to make recommendations to City Council on other matters. San Diego Charter § 41(c); SDMC § 112.0507 ("An application for a permit, map, or other matter acted upon in accordance with Process Four may be approved, conditionally approved, or denied by the Planning Commission."); SDMC § 112.0506 ("The Hearing Officer's decision may be appealed to the Planning Commission"); SDMC § 112.0509 (b) ("Before the City Council decision, the Planning Commission shall hold a public hearing to consider the

application . . . . At the conclusion of the public hearing, the Planning Commission shall make a written recommendation to the City Council to approve, conditionally approve, or deny the application.").

CPGs differ from an "advisory board such as a planning commission" for the additional reason that they are not created by law. The Planning Commission was created via the City Charter. San Diego Charter § 41(c). In contrast, CPGs are a creation of city policy only and "are voluntarily created and maintained by members of communities within the City." Council Policy 600-24 Background. Therefore, the requirements of CEQA Guidelines section 15025, which concern the delegation of authority within a local agency such as the City, do not apply to CPGs.

B. CEQA Guidelines Section 15025 Does Not Apply For the Additional Reason that CPGs Are Not Required to Make Recommendations on All Development Projects.

Even if CPGs were advisory bodies "such as a planning commission," CEQA Guidelines section 15025 would not require that they review CEQA documents before making recommendations on all development projects. CEQA Guideline section 15025 requires that an advisory body review EIRs and negative declarations only if the body is required to make a recommendation on the project for which those documents have been prepared. As stated above, Council Policy 600-24 does not require that CPGs make recommendations on all development projects. Rather, it states that CPGs make recommendations on specific projects at the request of the City.[3] Accordingly, even if CEQA Guidelines section 15025 applied to CPGs as advisory bodies, they would be required to review CEQA documents only if their recommendations were sought by the City.

This conclusion is supported by the only published case to examine the requirements of CEQA Guidelines section 15025(c). *See Tracy First v. City of Tracy*, 177 Cal. App. 4th 1 (2009) ("*Tracy First*"). In *Tracy First*, the court examined whether the City of Tracy's planning commission had complied with the requirement that it review an EIR associated with a zoning action before making a recommendation to the Tracy city council. In conducting this analysis, the court noted that "because the City's municipal ordinances required the planning commission to review zoning decisions and make a recommendation to the city council before the city council could act," CEQA Guidelines section 15025(c) applied. *Tracy First*, 177 Cal. App. 4th at 9. In contrast, nowhere does the San Diego Municipal Code require CPGs to make recommendations on development projects before City Council can act. Therefore, under this

[3] There are three exceptions. The Centre City, San Ysidro, and Southeastern San Diego Planned District Ordinances [PDOs] require certain community planning groups to provide recommendations concerning certain development permits. *See* SDMC § 156.0303(e)(1)(B)(ii) (requiring the Centre City Advisory Committee to make recommendations on projects of greater than 100,000 ft^2 gross floor area or 50 dwelling units requiring Centre City Development Permits); SDMC § 1518.0202(e) (requiring the San Ysidro Community Planning Committee to provide recommendations on San Ysidro Development Permits); SDMC § 1519.0204 (requiring that the "recognized planning group with responsibility for the area in which the project is proposed" in the Southeastern San Diego Planned District review discretionary permits).

case, CPGs would not be required to review CEQA documents prior to making a recommendation under CEQA Guidelines section 15025 unless requested to do so by the City.

II. CEQA GUIDELINE SECTION 15074 DOES NOT REQUIRE THAT CPGS REVIEW CEQA DOCUMENTS PRIOR TO MAKING RECOMMENDATIONS ON DEVELOPMENT PROJECTS.

A. The Language of CEQA Guidelines Section 15074

CEQA Guidelines section 15074 states that "[a]ny advisory body of a public agency making a recommendation to the decisionmaking body shall consider the proposed negative declaration or mitigated negative declaration before making its recommendation." CEQA Guidelines § 15074(a). This CEQA Guidelines section does not qualify advisory bodies, as does CEQA Guideline section 15025, as those "such as [] planning commission[s]" and those that are required to make recommendations on projects.

This difference in the language between the Guidelines sections presents a question as to what advisory bodies are covered by CEQA Guidelines section 15074. Neither CEQA nor its Guidelines provide a definition of advisory body. Cal. Pub. Res. Code §§ 21060 to 21072 (statutory definitions); CEQA Guidelines §§ 15350 to 15387 (CEQA Guidelines definitions). No court has squarely addressed the issue of what constitutes an advisory body for purposes of CEQA Guidelines section 15074. Nor has the California Resources Agency provided guidance regarding what advisory bodies are covered by CEQA Guidelines section 15074.

B. Rules of Statutory Construction Determine that CEQA Guidelines Section 15074 Does Not Apply to CPGs.

Given that CEQA, the CEQA Guidelines, and the courts have not defined the term "advisory body" for purposes of CEQA, we turn to principles of statutory construction to determine whether CPGs should be considered advisory bodies for purposes of CEQA Guidelines section 15074. *Head v. Civil Service Comm'n of San Diego County,* 50 Cal. App. 4th 240, 243 (Cal. App. 4 Dist. 1996) ("'Generally, the same rules of construction and interpretation which apply to statutes govern the construction and interpretation of rules and regulations of administrative agencies.'") (quoting *Cal. Drive-In Restaurant Assn. v. Clark,* 22 Cal. 2d 287, 292 (1943)).

Interpretation of "advisory body" in the CEQA Guidelines begins with the fundamental principle that "[t]he objective of statutory construction is to determine the intent of the enacting body so that the law may receive the interpretation that best effectuates that intent." *Fitch v. Select Products Co.,* 36 Cal. 4th 812, 818 (2005) (citing *Hassan v. Mercy American River Hospital,* 31 Cal. 4th 709, 715 (2003)). To ascertain that intent, one "turn[s] first to the words of the statute, giving them their usual and ordinary meaning." *Nolan v. City of Anaheim,* 33 Cal. 4th 335, 340 (2004) (citing *People v. Trevino,* 26 Cal. 4th 237, 240 (2001)).

In the face of ambiguity, however, the usual and ordinary meaning of the words is not enough. "[T]he purpose of statutory construction is not merely to declare the plain meaning of the words used; the purpose is to understand the intent of the lawmakers, and the goal of that inquiry, in turn, is to give maximum effect to that intent." *Rossi v. Brown*, 9 Cal. 4th 688, 716 (1995) (Mosk, J. dissenting). To effectuate this goal, "[s]tatutes or statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible." *Dyna-Med, Inc. v. Fair Employment & Housing Com.*, 43 Cal. 3d 1379, 1386-1387 (1987) (citing *California Mfrs. Assn. v. Public Utilities Comm'n*, 24 Cal. 3d 836, 844 (1979)). Furthermore, "[i]t is a cardinal principle of statutory construction that a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant." *TRW Inc. v. Andrews,* 534 U.S. 19, 31 (2001) (quotations and citations omitted); *see also Williams v. Superior Court of San Bernardino County*, 5 Cal. 4th 337, 357 (1993) ("An interpretation that renders statutory language a nullity is obviously to be avoided.").

These rules require that the term "advisory body" be given the same meaning in both CEQA Guidelines sections 15025 and 15074. This is required to harmonize the CEQA Guidelines sections. CEQA Guidelines section 15025 covers both EIRs and negative declarations. CEQA Guidelines section 15074 covers negative declarations. Thus, interpreting the term advisory body consistently in both CEQA Guidelines sections is necessary to prevent an impermissible conflict with respect to the same subject. *Dyna-Med, Inc.*, 43 Cal. 3d at 1386-1387 ("Statutes or statutory sections relating to the same subject must be harmonized . . . with each other, to the extent possible.").

The rules of statutory construction also mandate that the term "advisory body" be interpreted consistently with its meaning in CEQA Guidelines section 15025; *i.e.*, an advisory body such as a planning commission that is required to make a recommendation. This is required to avoid nullifying the language of CEQA Guidelines section 15025. Interpreting "advisory body" for purposes of both CEQA Guidelines sections to mean *any* advisory body, whether or not like a planning commission and whether or not required to make a recommendation, would render those qualifying phrases in Guidelines section 15025 superfluous, which is forbidden. *TRW Inc.*, 534 U.S. at 31; *Williams*, 5 Cal. 4th at 357. The advisory bodies required to review CEQA documents for purposes of *both* Guidelines sections 15025 *and* 15074 are therefore advisory bodies such as planning commissions that are required to make recommendations on projects. It necessarily follows that CPGs are not required by CEQA Guidelines sections 15025 or 15074 to review CEQA documents prior to making recommendations on development projects.

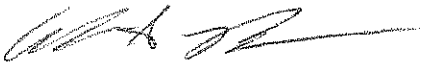
The only case to mention CEQA Guidelines section 15074 in reference to an advisory body supports this conclusion. The court in *Nasha L.L.C. v. City of Los Angeles* stated in its recitation of the facts, without analysis, that the Mulholland Design Review Board [Mulholland DRB] was an "advisory body" to which CEQA Guidelines section 15074 applied for purposes of its review of a proposed project. *Nasha L.L.C.*, 125 Cal. App. 4th 470, 475 (2004).

This decision did not expand the boundaries of the term advisory body in CEQA Guidelines section 15074 beyond that in CEQA Guidelines section 15025. The City of Los Angeles established the Mulholland DRB via ordinance as an official advisory board. The Los Angeles City Council empowered the Board to review projects falling within the Mulholland Scenic Parkway Specific Plan, and required that the Mulholland DRB make recommendations concerning those projects. *See* Mulholland Scenic Parkway Specific Plan *at* <http://cityplanning.lacity.org/complan/specplan/sparea/mulholpage. htm> (click on "Text" link) (visited June 19, 2009). The City of Los Angeles' formal creation of the Mulholland DRB and delegation to it of responsibilities for project review are attributes of advisory bodies such as planning commissions that are required to review CEQA documents under Guidelines section 15025. The requirement that the Mulholland DRB make recommendations on development projects puts it squarely within the bounds of CEQA Guidelines section 15025 as well. As discussed above, CPGs share none of these attributes.[4]

CONCLUSION

For the reasons stated above, CPGs are not required by law to review CEQA documents prior to making recommendations on development projects.

JAN I. GOLDSMITH, City Attorney

By 
Keith G. Bauerle
Deputy City Attorney

KGB:hm
MS-2009-11

cc: Christine Rothman, Community Planning Program Manager, City Planning & Community Investment
Cecilia Gallardo, Assistant Deputy Director, Development Services Department

[4] This opinion counsels that the La Jolla Shores Advisory Board [LJSAB], in contrast to CPGs, may be required to review CEQA documents before making recommendations on development projects. The LJSAB is similar to the Mulholland Design Review Board in that the LJSAB was established by ordinance of the City of San Diego. SDMC § 1510.0105. On the other hand, the LJSAB differs from the Mulholland DRB in that the La Jolla Shores PDO requires that the LJSAB make recommendations only on permits referred to it by the City. SDMC § 1510.0105 (b).