



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: November 2, 2006 **REPORT NO. PC-06-279**

ATTENTION: Planning Commission, Agenda of November 9, 2006

SUBJECT: OTAY MESA EAST EOT- PROJECT NO. 108628
PROCESS 5

REFERENCE: Minutes of the Council of the City of San Diego for the Regular Meeting of Tuesday, September 16, 2003, Item No. 331, Subitem-A, Subitem-B, Subitem-C, Subitem-D, and Subitem-E (Page 12-16); Minutes of the Council of the City of San Diego for the Regular Meeting of Monday, September 29, 2003, Item No. 50, Subitem-A and Subitem-B (Page 7-8); and Planning Commission Report No. P-03-171 (Attachments 6 and 7)

**OWNER/
APPLICANT:** Dr. Gerald Handler

SUMMARY

Issue: Should the Planning Commission recommend to the City Council approval of an Extension of Time for the previously approved Otay Mesa East project on a vacant 45.5-acre site located in the 6600 Block of Otay Mesa Road in the Commercial Subdistrict of the Otay Mesa Development District within the Otay Mesa Community Planning area?

Staff Recommendation:

1. Recommend to the City Council **Approval** of Vesting Tentative Map No. 362532, Site Development Permit No. 388242, and Rezone No. 388241.

Community Planning Group Recommendation: On September 20, 2006, the Otay Mesa Planning Committee voted 15-0-0 to recommend approval of the Extension of Time for the Otay Mesa East project with no conditions (Attachment 18).

Environmental Review: This activity is covered under the Otay Mesa East Mitigated Negative Declaration, Project No. 3159. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. The prior environmental documents adequately covered this activity as part of the previously approved project and

the activity in not a separate project for the purpose of California Environmental Quality Act (CEQA) review pursuant to CEQA Guidelines Section 15060(c)(3).

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

Code Enforcement Impact: None with this action.

Housing Impact Statement: None with this action. The proposed Otay Mesa East project would subdivide a vacant site with commercial lots for development consistent with the Otay Mesa Development District (OMDD)-C Zone for commercial uses.

BACKGROUND

The 45.5-acre vacant site is located in the 6600 block of Otay Mesa Road between Caliente Avenue and Heritage Road (Attachment 1). The project site is zoned AR-1-1 (A-1-10, old code designation) within the Otay Mesa Development District (OMDD) and a land use designation for Specialized Commercial within the Otay Mesa Community Plan (Attachment 3). The site has been historically used for agricultural purposes. Approximately 5.82-acres of the site, at the northeast corner and southern portion of the property, lies within the Multiple Habitat Planning Area (MHPA). The site also contains an existing wildlife corridor in the northeast corner of the property and an existing six-foot wide wildlife underground tunnel, which is located under Otay Mesa Road at the intersection of Corporate Center Drive.

The Otay Mesa East project proposes to subdivide the site into nine commercial lots (Lots 1-8 and 12); three open space lots (Lots 9-10 and 13); construction of a private underground sewer pump station located at the northeast corner of the site (Lot 11); preservation of an existing 1.3-acre wildlife corridor; preservation of the MHPA; 6-acres would be designated as open space to protect the MHPA on the southern boundary of the site; and an additional 6-acres, on the eastern boundary of the project site, would also be designated as open spaces and includes a fenced preserve for 22 existing vernal pools and one road pool located in the southeast corner of the property (Attachment 5).

The originally approved project required the certification of a Mitigated Negative Declaration and the adoption of the Mitigation, Monitoring and Reporting Program (Resolution Number R-298378); adoption of a resolution granting Vesting Tentative Map No. 8182 (Resolution Number R-298379); adoption of a resolution granting Resource Protection Ordinance Permit No. 8163 (Resolution Number R-298380); adoption of an ordinance to rezone the property from AR-1-1 to the OMDD-C Zone (Ordinance No. O-19216-New Series); and the adoption of an ordinance to amend Chapter 10, Article 3, Division 11, of the San Diego Municipal Code (SDMC) by amending Section 103.1103 relating to permitted uses in the OMDD (Ordinance No. O-19217-New Series).

On July 17, 2003, the Planning Commission voted 6-0 to recommend to the City Council approval of the Otay Mesa East project. On September 16, 2003, the City Council approved the project in a vote 8-0 pursuant to Resolution Number R-298378, Resolution Number R-298379, Resolution Number R-298380; and introduced Ordinance Number O-19216 (New Series) and Ordinance

Number O-19217 (New Series) (Attachments 8-12). On September 29, 2003, the City Council adopted both Ordinances in a vote of 9-0.

DISCUSSION

On July 21, 2006, the property owner filed an application for an Extension of Time (EOT) prior to the expiration of the Vesting Tentative Map (VTM) and Resource Protection Ordinance Permit (RPO) for the proposed Otay Mesa East project. The property owner has not obtained any construction permits or processed a final map for the proposed development site. However, pursuant to the Municipal Code sections 125.0461(a)(1) and 126.0111(b), the timely filing of the extension of time request application automatically extended the VTM and RPO for a period of 60 calendar days from the expiration date or until a decision on the extension of time has been made, whichever occurs last.

Rezone Ordinance No. O-19216 (New Series) became effective on September 29, 2003, and required the property owner, within three years from the effective date, to subdivide the property and have final maps submitted to the City. There is not a similar extension of time for the Rezone Ordinance. Therefore, the Rezone Ordinance expired and a new rezone ordinance will need to accompany the VTM and RPO extension of time. The amendment to Chapter 10, Article 3, Division 11, of the SDMC by amending Section 103.1103 relating to permitted uses in the OMDD (Ordinance No. O-19217-New Series) has already been incorporated into the SDMC.

The original Otay Mesa East application was submitted and deemed complete on June 9, 1999, prior to the new code update that became effective on January 1, 2000. The project was approved based on the old zoning code regulations that were in affect; however, the project did incorporate the new storm water requirements prior to its approval and has been designed in accordance with the City's Storm Water Standards.

The Resource Protection Ordinance regulations have been replaced with the Environmental Sensitive Lands Regulation within the current SDMC, and a Site Development Permit (SDP) has replaced the RPO permit. Staff has reviewed both regulations and has determined that the proposed project meets the intent and purpose of both regulations to protect and preserve the environmentally sensitive lands and the viability of the species supported by those lands.

The extension of time application limits the City in its review. No new condition of modification of an existing condition may be attached to the approval of an extension, unless new conditions are mandated to comply with state or federal law or are necessary to protect the health or safety of the residents of the proposed subdivision or immediate community. The Otay Mesa East project as presented is the same project as approved by the City Council, and no new conditions are mandated to comply with state and federal law. Previous conditions of approval for the VTM and RPO permit have been included in the draft VTM No. 362532 and SDP No. 388242.

Conclusion:

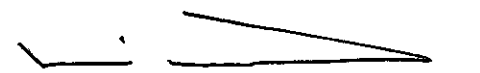
The approval of the Extension of Time would allow the owner/developer an additional three years to develop the project. The Otay Mesa East project as presented is the same project as approved by the City Council. Staff has determined the required findings can be supported and no new

conditions are mandated to comply with state and federal law. Previous conditions of approval for the VTM and RPO permit have been included in the draft VTM No. 362532 and SDP No. 388242. Therefore, staff recommends that the Planning Commission recommend to the City Council approval of an Extension of Time for the previously approved Otay Mesa East project.

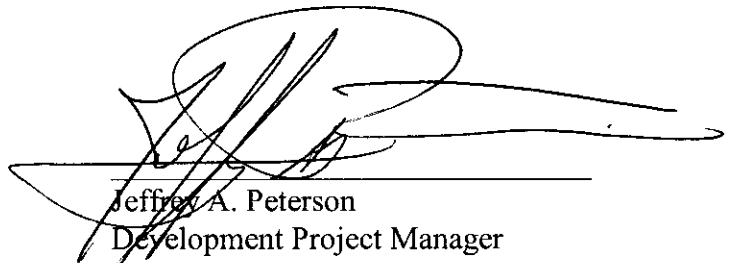
ALTERNATIVE

1. Recommend to the City Council to **Deny** Vesting Tentative Map No. 362532, Site Development Permit No. 388242, and Rezone No. 388241, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,



Mike Westlake
Program Manager
Development Services Department



Jeffrey A. Peterson
Development Project Manager
Development Services Department

WESTLAKE /JAP

Attachments:

1. Project Location Map
2. Aerial Photograph
3. Community Plan Land Use Map
4. Project Data Sheet
5. Project Plans
6. City Council Minutes for September 16, 2003 and September 29, 2003
7. Planning Commission Report No. P-03-171
8. MND and the adoption of the MMRP (Resolution Number R-298378)
9. Vesting Tentative Map No. 8182 (Resolution Number R-298379)
10. Resource Protection Ordinance Permit No. 8163 (Resolution Number R-298380)
11. Resource Protection Ordinance Permit No. 8163 with Conditions
12. Rezone Ordinance No. O-19216 (New Series)
13. Draft Vesting Tentative Map Conditions and Subdivision Resolution
14. Draft Site Development Permit Resolution with Findings
15. Draft Site Development Permit with Conditions
16. Draft Rezone Ordinances and Exhibit
17. Draft Planning Commission Resolution
18. Community Planning Group Recommendation
19. Ownership Disclosure Statement
20. Project Chronology