



Environmental Hearing MINUTES – Draft

Wednesday, February 25, 2009, 6:00 P.M.

**GOLETA CITY HALL
130 CREMONA DRIVE, SUITE B, GOLETA, CALIFORNIA**

**Environmental Hearing Officer
Anne Wells**

A. CALL MEETING TO ORDER AND ROLL CALL

The meeting was called to order at 6:00 p.m. by Advance Planning Manager Anne Wells. Anne Wells announced that she will be acting as the Environmental Hearing Officer at this hearing. She said that the purpose of this hearing is to allow interested persons an opportunity to comment on the adequacy of the Draft Supplemental Environmental Impact Report (SEIR) for the proposed Track 3 Amendments to the City of Goleta General Plan/Coastal Land Use Plan. She clarified that the hearing is not a decision-making forum.

Staff present: Director of Planning and Environmental Services Steve Chase; Advance Planning Manager Anne Wells; Senior Planner Dan Nemechek; Assistant Planner Margaret Duncan; Environmental Consultant Charles Smith, Jones & Stokes; and Recording Clerk Linda Gregory.

B. PUBLIC HEARING

B-1. Track 3 General Plan/Coastal Land Use Plan Amendments 07-202-GPA.

The Goleta General Plan / Coastal Land Use Plan contains policies that guide future development in the City of Goleta. The City refers to the set of proposed General Plan Amendments contained in Case No. 07-202-GPA as "Track 3 Substantive Policy Revisions." Track 3 General Plan Amendments affect the policies, tables, and maps in the Land Use, Conservation, Open Space, and Transportation Elements of the General Plan / Coastal Land Use Plan and requires a Supplemental EIR to the Final EIR certified in October 2006.

The Draft SEIR has been prepared pursuant to the requirements of the state and local Guidelines for the Implementation of the California Environmental Quality Act (CEQA). The Draft SEIR identifies and discusses potential impacts, mitigation, measures, monitoring requirements, and residual impacts for identified subject areas. All effects on the environment identified in the 2006 Final EIR were evaluated in relation to the proposed

Environmental Hearing - Track 3 GP/CLUP Amendments - Minutes – Draft

February 25, 2009

Page 2 of 4

"Track 3" General Plan Amendments. No new potentially significant effects on the environment were identified as a result of the proposed General Plan Amendments, and one new potentially significant effect on the environment related to air quality was identified as a result of recent State regulatory changes.

Senior Planner Dan Nemechek made a presentation that included the purpose, background and overview, summary of the Project Description, Draft SEIR conclusions and next steps in the process; along with a PowerPoint entitled "Track 3-Substantive Changes Draft Supplemental Environmental Impact Report Public Hearing February 25, 2009, 6:00 p.m." He stated that the deadline for receiving comments is March 16, 2009, at 5:00 p.m.

PUBLIC HEARING OPENED AT 6:15 P.M.

Speakers:

1. George Relles, Goleta, expressed concerns regarding the noticing process for the hearing, although he recognizes that letters were sent out and written comments can be submitted. He suggested that another public meeting be held and that consideration be given to televising the meeting and using noticing methods that include additional print newspapers, on-line newspapers, the City's website, and sending e-mails to persons who have submitted e-mail communications. He stated that the project is fairly complex and a workshop would possibly be better suited although it would still be difficult. He commented on the project as follows:

- D-1.1 | a. He believes that the Draft SEIR is deficient, primarily because recent rulings have indicated that EIRs need to address climate change, which was addressed in one portion of the Draft SEIR, but he does not believe it is adequate.
- D-1.2 | b. The impacts on creeks from the potential for oceans to rise will need to be addressed and whether the 50-foot setback being proposed is adequate. Climate change is likely to cause the oceans to rise in the future.
- D-1.3 | c. Similarly, the impact of climate change may need to be discussed with regard to agriculture conversion and making agricultural conversion more readily available. His understanding is that when hardscape is installed there is more reflection from sunlight going back into the atmosphere which is the greenhouse effect, and that crops are more likely to absorb that sunlight and may mitigate that effect.
- D-1.4 | d. He submitted written information entitled "California Court: Environmental Impact Report Must Address Climate Change". He will submit his comments in writing.

2. Barbara Massey, Goleta, commented on the process, noting that a notice was placed on the City's website just this morning and that this hearing is not televised. She commented on the Draft SEIR as follows with the following concerns:

- D-2.1 | a. Pages 3-1 to 3-4 of the Draft SEIR point out the negative impact of the changes using terms including "loss, long-term degradation, fragmentation, harm, increases pollution, conflicts, and inconsistency".
- D-2.2 | b. Removing environmental protections and replacing them with a city-wide Habitat Management Plan will be far less protection. There will be a delay in preparing the plan and the plan will be much easier to change than the General Plan.
- D-2.3 | c. Buffers will be reduced to less than 100 feet from wetlands and streamside protection areas.

Environmental Hearing - Track 3 GP/CLUP Amendments - Minutes – Draft

February 25, 2009

Page 3 of 4

- D-2.4 | d. Environmental protections are considerably lessened in this document.
- D-2.5 | e. She does not believe the public wants the amendments in Track 3 and expressed concern regarding the cost for the process
- D-3.1 | 3. Gary Vandeman, Goleta, agreed with comments made by previous speakers George Relles and Barbara Massey. He commented that if Alternative 2b is selected, the Habitat Management Plan needs to be presented concurrently with the alternative because the environmental impact can not be evaluated until it is known what will be different in the Habitat Management Plan.
4. Cecilia Brown, Goleta, commented regarding the public process and spoke in support of a broad outreach to the public. She suggested that another workshop would be helpful and informative. She commented on the Draft SEIR as follows:
- D-4.1 | a) Consider whether there needs to be better analysis regarding how trees and the City's urban forest would reduce greenhouse gases.
- D-4.2 | b) She expressed concern regarding the usefulness of habitat management plans, stating that the plans are an artificially maintained environment for the species of concern. The document needs to mention that time and resources are needed to maintain these environments and discuss what would happen without these environments.
- D-4.3 | c) With regard to the removal of the Coastal Development Permit requirement for any temporary event, she believes it would be important to address her concern that the City needs to have the ability to ensure that there are no planned activities on culturally sensitive sites.
- D-4.4 | d) There needs to be a broad discussion regarding the environmental impact when bridge footings are placed in creeks.
- D-4.5 | e) The diagram of the Goleta Water District basin, Figure 3.9-1, is very "busy" and needs to be much clearer. The diagram should include the most up-to-date information available from the Goleta Water District.
- D-4.6 | f) There may be other bat species in this area that should be included in policy CE 8.1.g ESHA Designations, shown in Attachment 5.
- D-4.7 | g) Requested discussion regarding whether the 100-foot buffer around active nesting sites is sufficient to protect sensitive species (for example raptors), from the effects of development, lighting, traffic and other human activity.
5. Karen Lovelace, El Encanto Heights area resident, Goleta, spoke in general opposition to the proposed Track 3 Amendments to the General Plan. She commented:
- D-5.1 | a. The majority of Goleta citizens did not propose these changes to the General Plan.
- D-5.2 | b. The Draft SEIR conclusion that the proposed Track 3 Amendments would result in no change to the impacts projected to the 2006 Final Environmental Impact Report is questionable.
- D-5.3 | c. She believes that developers prefer the proposed amendments which would allow for more development on a site.
- D-5.4 | d) Comparing the projects on the Cumulative Development Projects list dated November 2008 that would be approved under the current General Plan policies with those projects on the list that would be approved under the proposed General Plan Amendments would probably provide an indication of the differences in impacts and development intensity.

Environmental Hearing - Track 3 GP/CLUP Amendments - Minutes – Draft

February 25, 2009

Page 4 of 4

6. Richard Foster, El Encanto Heights area resident, Goleta, commented:
- D-6.1 | a. The proposed changes undermine specificity in the General Plan which he believes will promote litigation.
 - D-6.2 | b. The General Plan policies need to be very specific and narrow with regard to meeting the guidelines.
 - D-6.3 | c. Expressed concern that changing setbacks on wetlands and sensitive areas will just allow for more developable space.
 - D-6.4 | d. The standards should be set much higher, aspiring for maximums rather than minimums.
 - D-6.5 | e. Suggested that the current General Plan remain as is if there are no changes to the impacts because it seems to be more restrictive than what is proposed.

PUBLIC HEARING CLOSED AT 6:37 P.M.

Anne Wells, Environmental Hearing Officer, provided an overview of the review process that will follow this hearing. She noted that the Draft SEIR document is available for public review at the Goleta Library and at the City's Planning and Building Department counter. She stated that the Project Description that was evaluated in the Draft SEIR was based on the public hearings and workshops that were held in 2007 and 2008, and that efforts were made for public outreach.

C. ADJOURNMENT: 6:42 P.M.



**Environmental Hearing
MINUTES – Draft**

Monday, March 16, 2009, 6:00 P.M.

**GOLETA CITY HALL
130 CREMONA DRIVE, SUITE B, GOLETA, CALIFORNIA**

**Environmental Hearing Officer
Anne Wells**

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Staff present: Advance Planning Manager Anne Wells; Senior Planner Dan Nemechek; Assistant Planner Margaret Duncan; and Recording Clerk Linda Gregory.

B. PUBLIC HEARING

B-1. Track 3 General Plan/Coastal Land Use Plan Amendments 07-202-GPA.

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The Draft SEIR has been prepared pursuant to the requirements of the state and local Guidelines for the Implementation of the California Environmental Quality Act (CEQA). The Draft SEIR identifies and discusses potential impacts, mitigation, measures, monitoring requirements, and residual impacts for identified subject areas. All effects on the environment identified in the 2006 Final EIR were evaluated in relation to the proposed "Track 3" General Plan Amendments. No new potentially significant effects on the environment were identified as a result of the proposed General Plan Amendments,

and one new potentially significant effect on the environment related to air quality was identified as a result of recent State regulatory changes.

Senior Planner Dan Nemechek made a presentation that included the purpose, background and overview, summary of the Project Description, Draft SEIR conclusions and next steps in the process; along with a PowerPoint entitled "Track 3-Substantive Changes Draft Supplemental Environmental Impact Report Public Hearing #2 March 16, 2009, 6:00 p.m." He stated that the deadline for receiving comments was extended to April 6, 2009, at 5:00 p.m.

PUBLIC HEARING OPENED AT 6:11 P.M.

Speaker:

1. Connie Hannah, representing the League of Women Voters, commented regarding the League's continuing concerns about the proposed Track 3 changes:
 - a. The League does not believe the Draft SEIR has solved their major concerns because it reports that all the major impacts can be mitigated, and the League does not agree that they can be fully mitigated.
 - b. The League believes that the weakening of environmental protections in the Conservation Element is a mistake and that the testimony of experts in the related fields must be taken very seriously about the detailed protections that are needed.
 - c. The League is concerned about the impact of changing OS 1.10, Management of Public Lateral Access Areas. Allowing private parties to take over beach areas for their own events is a serious matter. Any such event should require a Conditional Use Permit from the City, which would allow the City to protect the public's right to use the beaches. The California Coastal Act requires that this access be protected.
 - d. The League has been opposed to big box stores in the City and prefers the original limitations in the General Plan. The big box stores can have destructive impacts on residential neighborhoods and the City as a whole.
 - e. The League continues to support policies LU 11, LU 11.2 and LU 11.3, Non-Residential Growth Management. The jobs/housing balance on the South Coast is already out of balance, and only by controlling job growth can we hope to improve the lack of affordable housing for employees. Only large public subsidies can build affordable housing, and those funds will be in increasingly short supply.
 - f. The League does not approve changing the word "mitigate" to "minimize" in section TE 13.4 because "mitigate" has a very clear definition and would be appropriate to use when developments are asked to contribute to solving the traffic problems they create.
 - g. "Statement to the City of Goleta Staff Hearing Officer on March 16, 2009" from the League of Women Voters of Santa Barbara, Inc., was submitted.

PUBLIC HEARING CLOSED AT 6:15 P.M.

Anne Wells, Environmental Hearing Officer, stated that the deadline for comments to be received on the Draft SEIR was extended to April 6, 2009, at 5:00 p.m. She provided an overview of the review process that will follow this hearing. She noted that the Draft SEIR document is available for public review at UCSB, the Goleta Library and at the City's Planning and Building Department counter.

C. ADJOURNMENT: 6:17 P.M.

and one new potentially significant effect on the environment related to air quality was identified as a result of recent State regulatory changes.

Senior Planner Dan Nemechek made a presentation that included the purpose, background and overview, summary of the Project Description, Draft SEIR conclusions and next steps in the process; along with a PowerPoint entitled "Track 3-Substantive Changes Draft Supplemental Environmental Impact Report Public Hearing #2 March 16, 2009, 6:00 p.m." He stated that the deadline for receiving comments was extended to April 6, 2009, at 5:00 p.m.

PUBLIC HEARING OPENED AT 6:11 P.M.

Speaker:

1. Connie Hannah, representing the League of Women Voters, commented regarding the League's continuing concerns about the proposed Track 3 changes:
 - D-7.1 a. The League does not believe the Draft SEIR has solved their major concerns because it reports that all the major impacts can be mitigated, and the League does not agree that they can be fully mitigated.
 - D-7.2 b. The League believes that the weakening of environmental protections in the Conservation Element is a mistake and that the testimony of experts in the related fields must be taken very seriously about the detailed protections that are needed.
 - D-7.3 c. The League is concerned about the impact of changing OS 1.10, Management of Public Lateral Access Areas. Allowing private parties to take over beach areas for their own events is a serious matter. Any such event should require a Conditional Use Permit from the City, which would allow the City to protect the public's right to use the beaches. The California Coastal Act requires that this access be protected.
 - D-7.4 d. The League has been opposed to big box stores in the City and prefers the original limitations in the General Plan. The big box stores can have destructive impacts on residential neighborhoods and the City as a whole.
 - D-7.5 e. The League continues to support policies LU 11, LU 11.2 and LU 11.3, Non-Residential Growth Management. The jobs/housing balance on the South Coast is already out of balance, and only by controlling job growth can we hope to improve the lack of affordable housing for employees. Only large public subsidies can build affordable housing, and those funds will be in increasingly short supply.
 - D-7.6 f. The League does not approve changing the word "mitigate" to "minimize" in section TE 13.4 because "mitigate" has a very clear definition and would be appropriate to use when developments are asked to contribute to solving the traffic problems they create.
 - D-7.7 g. "Statement to the City of Goleta Staff Hearing Officer on March 16, 2009" from the League of Women Voters of Santa Barbara, Inc., was submitted.

PUBLIC HEARING CLOSED AT 6:15 P.M.

Anne Wells, Environmental Hearing Officer, stated that the deadline for comments to be received on the Draft SEIR was extended to April 6, 2009, at 5:00 p.m. She provided an overview of the review process that will follow this hearing. She noted that the Draft SEIR document is available for public review at UCSB, the Goleta Library and at the City's Planning and Building Department counter.

C. ADJOURNMENT: 6:17 P.M.

RECEIVED

FEB 25 2009

<http://climateintel.com/2008/08/12/california-court-environmental-impact-report-must-address-climate-change/>

City of Goleta
Planning & Environmental Svcs.

California Court: Environmental Impact Report Must Address Climate Change

August 12, 2008 5:32 PM in [Litigation](#) • [Plaintiffs' Litigation](#) | Joyce Wong Kup |

Last week, the Riverside County Superior Court invalidated an environmental impact report (EIR) for a 1,766-acre residential and commercial project that had been proposed for development in the northwest open space areas of Coachella Valley near Joshua Tree National Park in Southern California. The Court cited the EIR's failure to analyze the project's greenhouse gas (GHG) emissions and other climate change impacts. [[Center for Biological Diversity, et al. v. City of Desert Hot Springs, et al.](#) (Riverside County Superior Court - Case No. RIC 464585) (August 6, 2008)].

The Palmwood Project proposed nearly 2,700 homes, 1 million square feet of commercial space, a 400-unit hotel, a commercial amphitheater, and golf courses comprising 45 holes. Environmental groups Center for Biological Diversity and Sierra Club challenged the Project, arguing, *inter alia*, that respondent City of Desert Hot Springs' failure to make a meaningful attempt to analyze the Project's climate change impacts violated the California Environmental Quality Act (CEQA), the state version of the National Environmental Policy Act.

Under CEQA, public agencies are required to prepare EIRs for proposed actions that may have potentially significant adverse environmental impacts. The EIR must analyze and provide feasible mitigation measures for such impacts, as well as discuss project alternatives.

In 2006, California adopted the landmark [Global Warming Solutions Act \(AB 32\)](#), which set a goal of cutting the state's GHG emissions to 1990 levels by 2020. In 2007, [SB 97](#) further directed the Governor's Office of Planning and Research (OPR) to develop CEQA Guidelines on GHG emissions by July 2009, which the California Resources Agency would adopt by January 2010. Meanwhile, in June 2008, the OPR published a [technical advisory](#) of informal guidance on how to calculate and reduce GHGs.

Since 2007, environmental groups have brought a number of CEQA challenges against proposed projects based on their environmental documents' failure to adequately address potential climate change

impacts. In the Palmwood lawsuit, the court “affirmed what the California legislature made clear: that global warming must be addressed in land-use decisions,” said Jonathan Evans , an attorney with petitioner Center for Biological Diversity.

Specifically, respondent City of Desert Hot Springs contended that a climate change analysis was not required because it would be entirely “speculative,” given the absence of any formal regulatory guidance, framework, or the necessary analytic tools or methodology. Rejecting this argument, the Court held that the City should have at least made a “meaningful attempt” to analyze the Project’s climate change impacts. By failing to do so, the City did not proceed as required by law. The Court further held that the City should have considered the cumulative impact of GHGs.

As of August 1, 2008, nearly 400 environmental documents in California have included discussion of a proposed project’s climate change impacts. To date, lead agencies have taken various approaches in their climate change impact analyses - ranging from a qualitative or quantitative analysis without any significance determination; to a quantitative analysis with a zero net carbon dioxide equivalent increase as the threshold (where the project’s GHG emissions would be mitigated to zero or the project would rely on carbon offset trading to achieve net zero emissions); to a quantitative analysis that provides an inventory of project GHG emissions and relies on compliance with GHG reduction strategies contained in the California Climate Action Team reports.

As for which approach may be most appropriate, the debate remains open until the OPR or some other agency develops firmer regulatory guidance on how to address climate change impacts in CEQA documents. Meanwhile, the Center for Biological Diversity, et al. v. City of Desert Hot Springs, et al. case settles that, at minimum, lead agencies must make a “meaningful attempt” and “use its best efforts to find out and disclose all that it reasonably can” regarding a proposed action’s climate change impacts.

For further information about this topic, please contact Akin Gump.

Response to Comment No. D-1.1

The commentator states that the Draft SEIR is deficient, primarily because recent rulings have indicated that EIRs need to address climate change, which was addressed in one portion of the Draft SEIR, but he does not believe it was adequate.

Comment Noted. Increases in the amount of Green House Gases (GHG) in the atmosphere have been identified as a primary means of accelerated global climate change and have been addressed at a programmatic level in Draft SEIR Section 3.3, Air Quality. The Draft SEIR has identified Impact 3.3-7, Long-Term Cumulative Operational Emissions as a Result of GP/CLUP Implementation, as a potentially significant impact associated with all of the alternatives, including the existing GP/CLUP, and provides a mechanism to reduce this impact at a local and regional level through implementation of Mitigation Measure AQ-1: *Add a Policy that Requires Development of a Greenhouse Gas Reduction Plan*. Mitigation Measure AQ-1 will establish an inventory of existing City wide GHG emissions, identify methods to reduce GHG emissions, identify a GHG reduction goal for the 2030 planning horizon, and address climate change at a programmatic level. To ensure that effects on biological resources are addressed as part of Mitigation Measure AQ-1, the Final SEIR will indicate that the Greenhouse Gas Reduction Plan will consider a biological resource protection component.

Response to Comment No. D-1.2

The commentator recommends that impacts on creeks from the potential for oceans to rise be addressed and whether a 50-foot SPA would be adequate in such an event.

See Responses to Comments D-1.1 and A-5.27. Regarding the comment that the potential rise in ocean levels needs to be addressed in the evaluation of setting 50 feet as the minimum width of the SPA, the timing and nature of such changes is too speculative to assess at this time. This is not to say that certain climate change scenarios may not ultimately alter water levels and habitat conditions in the City and elsewhere. However, the appropriate venue for addressing these effects is the plan that will be developed within 48 months under Mitigation Measure AQ-1. Barring unforeseeable circumstances, it is reasonable to assume that the effects of climate change will not substantially alter ocean levels, creek flows, or habitat conditions in the meantime. Further, as currently applies under all alternatives (including the existing GP/CLUP), foreseeable changes in conditions can be addressed in the site specific evaluation that would occur when the SPA is determined for a specific parcel.

For additional responses to comments on proposed changes to CE 2.2 (SPA) and for a description of the amended CE 2.2 adopted by the City under a separate action, see Attachment A.

Response to Comment No. D-1.3

The commentator states that the impact of climate change may need to be discussed with regard to agricultural conversion.

See Response to Comment No. D-1.1

Response to Comment No. D-1.4

The commentator submitted written information entitled “California Court: Environmental Impact Report must address Climate Change.” Document accepted.

Response to Comments Nos. D-2.1 through D-2.5

The commentator notes that the Draft SEIR: indicates the negative impacts of the proposed changes; a citywide HMP would provide less protection and would be easier to change the GP/CLUP policies; the reduction of minimum buffers from 100 to 50 feet would lessen environmental protections; the public does not want the track 3 amendments; and the cost of the amendment process is a concern.

Comments noted. Also see Attachment A.

Response to Comment No. D-3.1

The commentator recommends that, if Alternative 2a is selected, the HMP should be prepared and analyzed concurrently with the overall alternative so the impacts of the HMP can be considered.

Comments noted. Regarding the HMP, a separate CEQA review would be required and could be conducted after Alternative 2a was selected. Choosing to do an HMP does not pre-approve or otherwise authorize any impact associated with the HMP. Also, as indicated in the SEIR, retaining the existing policies in the interim would reduce the potential for significant impacts to special resources while the plan was being prepared.

Response to Comment No. D-4.1

The commentator requests that the City consider whether there needs to be better analysis regarding how trees and the City’s urban forest would reduce greenhouse gases. Potential environmental impacts associated with the proposed amendments to the GP/CLUP are addressed through Impact 3.3-7 in Section 3.3.3.4 of the Draft SEIR. Section 3.3.3.5 of the Draft SEIR includes *Mitigation Measure AQ-1: Add a Policy That Requires Development of a Greenhouse Gas Reduction Plan*. As provided in bullet “d” on page 3.3-34 of the Draft SEIR, the plan will “Identify methods to reduce GHG emissions.” These methods may include trees, if ultimately deemed applicable.

Response to Comments Nos. D-4.2, D-4.5, and D-4.6

The commentator expresses concerns regarding the usefulness of habitat management plans, suggests that they are an artificially maintained environment for the species of concern, and inquires whether there are other bat species in this area which should be included in Policy CE 8.1g. The commentator also recommends that there be additional discussion regarding whether the 100-foot buffer around active nesting sites is sufficient to protect sensitive species (for example raptors) from the effects of development, lighting, traffic and other human activity.

Comments noted. Regarding the HMP, the intent would be to maintain habitats in their natural state. However, some areas would require more management than others and those areas could be considered “artificially maintained environments.” Regarding CE 8.1g, the bat species listed are not the only species potentially occurring in the City. Regarding the effectiveness of a

100-foot buffer around raptor nest sites, further discussion would occur in connection with site specific planning and, under Alternative 2a, as part of the preparation of an HMP.

Response to Comment No. D-4.3

The commentator states her belief that the city needs the ability to ensure that there are no planned events on culturally sensitive sites due to removal of the requirement for a Coastal Development Permit from the General Plan/Coastal Land Use Plan.

Comment noted. See Response to Comment No. C-2.8.

Response to Comment No. D-4.4

The commentator has requested a broad discussion regarding the potential environmental impacts associated with bridge footings placed in creeks.

The intent of changing Subpolicy CE 2.5(e) is to allow flexibility in design where conditions warrant. As noted in Draft SEIR and Final SEIR Table 3.4-6, the amendment to CE 2.5(e) does not result in significant impacts because the intention in the policy is to locate bridge abutments/piers beyond the creek bed and bank. The change from shall to should does not authorize any impacts not considered in the FEIR. Also, the change does not alter the protection of creeks or increase expected infrastructure (i.e. bridges) under the GP/CLUP. As such, additional broad discussion regarding this subject is not necessary.

Section 3.5 (page 3.5-2) in the Final SEIR has been modified to address impacts associated with this modification to Subpolicy CE 2.5(e), as follows:

Alternative 2a includes proposed policy amendments CE 2.3 (which would allow for public work projects to take place in SPAs only where there are no feasible, less environmentally damaging alternatives) and CE 2.5 (which would encourage the location of bridge abutments or piers outside of creek beds and banks, where feasible).

Construction and development of these projects could result in impacts to cultural resources; however, Policy 2.3 currently allows for other compatible land uses in SPAs such as agricultural operations, the construction of public road crossings and utilities, foot-trails, and bicycle paths. Potential impacts to cultural resources from the development of public works projects could be similar to impacts caused from the construction and development of these other allowable land uses. Potential impacts to cultural resources from future public works projects would be reviewed on through future project-level review. Such review would include considering the project's consistency with overall GP/CLUP goals and policies and the requirements that apply to cultural and historic resources under federal and state regulations, including CEQA. Alternatives 2b and 3 propose the same policy amendments as Alternative 2a.

Response to Comment No. D-4.7

The commentator has requested a discussion as to whether the 100-foot buffer around active nesting is adequate.

The proposed amendment to CE 8.4 does not alter the adopted 100-foot buffer for active nesting sites and was deemed adequate mitigation per the 2006 GP/CLUP FEIR. Comment noted.

Response to Comment No. D-5.1

Comment noted. The commentator has expressed an opinion regarding their like or dislike of the project description, rather than the adequacy of the environmental analysis presented in this Supplemental EIR.

Response to Comment No. D-5.2

The commentator has expressed an opinion questioning the Draft SEIR conclusion that the Draft SEIR would result in no change to the impacts projected to the 2006 Final EIR. Comment noted.

Response to Comment No. D-5.3

The commentator has expressed an opinion regarding their like or dislike of the project description, rather than the adequacy of the environmental analysis presented in this Supplemental EIR. Comment noted.

Response to Comment No. D-5.4

The commentator has expressed an opinion regarding how to evaluate impacts and development intensity, rather than the adequacy of the environmental analysis presented in this Supplemental EIR. Comment noted.

Response to Comment No. D-6.1

The commentator states the opinion that proposed changes undermines specificity in the General Plan, which he believes will promote litigation. Comment noted.

Response to Comment No. D-6.2

The commentator states the opinion that the General Plan policies need to be very specific and narrow with regard to meeting the guidelines. Comment noted.

Response to Comment No. D-6.3

The commentator has expressed an opinion regarding their like or dislike of the project description, rather than the adequacy of the environmental analysis presented in this Supplemental EIR. Comment noted.

Response to Comment No. D-6.4

The commentator has expressed an opinion regarding their like or dislike of the project description, rather than the adequacy of the environmental analysis presented in this Supplemental EIR. Comment noted.

Response to Comment No. D-6.5

The commentator supports leaving the General Plan as is (Alternative 1). Comment noted.

Response to Comment No. D-7.1

The commentator states that the League does not believe the Draft SEIR has solved their major concerns because it reports that all major impacts can be mitigated, and the League does not agree that they can be mitigated. Comment noted.

Response to Comment No. D-7.2

The commentator states the League believes that the weakening of environmental protections in the Conservation Element is a mistake and that the testimony of experts in the field must be taken seriously.

See Response to Comments Nos. B-4.1 and B-4.2.

Response to Comment No. D-7.3

The commentator states that the impact of changing OS 1.10, Management of Public Lateral Access Areas and allowing private parties to take over beach areas for their own events is a serious matter. Any such event should require a Conditional Use Permit. Comment noted.

Response to Comment No. D-7.4

The commentator is opposed to opening the entire City to big box stores and supports Alternative 1 (no change) for Policy LU 3.2. Comment noted.

Response to Comment No. D-7.5

The commentator still supports Policies LU 11, LU11.2 and LU 11.3, Non-Residential Growth Management. The jobs/housing balance on the South Coast is already out of balance, and only by controlling job growth can we hope to improve the lack of affordable housing for employees. Only large public subsidies can build affordable housing, and those funds will be increasingly in short supply. Comment noted.

Response to Comment No. D-7.6

The commentator supports Alternative 1 (No Change) for Policies LU 11 and LU-IA-2 related to Non-Residential Growth Management Policies, and TE 13.4, Options if Traffic Mitigation Measures are not Fully Funded. Comments noted.

Response to Comment No. D-7.7

The commentator submitted a letter from the League of Women Voters. Letter received.

RESPONSES TO COMMENTS ATTACHMENT A

This attachment provides a detailed response to comments on the Draft SEIR regarding proposed changes to CE 2.2 and describes the amended Policy CE 2.2 adopted by the City in May 2009 under a separate action.

Response to Comments on Proposed Changes to CE 2.2

Most of the comments received on the Draft SEIR regarding proposed changes to CE 2.2 recommended that the minimum SPA width outside of already developed areas:

- should remain 100 feet¹; and
- should not be reduced to 50 feet because the change potentially would reduce protection of riparian/wetland resources and could result in significant impacts (site specific and/or cumulative) to special status habitats and species.

Under Alternatives 2a and 3, CE 2.2 would be modified to make 50 feet the minimum width of the setback from the edge of riparian/wetland habitat along creeks. The existing policy identifies 100 feet as the width for the SPA outside of areas that are not already developed. In developed areas, the minimum setback under the existing policy is 50 feet. Alternative 2a changes one word in subsection 2.2b to make 50 feet the minimum SPA width the same in developed areas and other sections of the City. Alternative 3 adds additional clarifications, specifically that the upland portion of the SPA would be a minimum of 50 feet, with the overall SPA determined based on area specific considerations relevant to the purpose of the SPA. As stated in the existing policy, "The purpose of the designation shall be to preserve the streamside protection area in a natural state in order to protect the associated riparian habitats and ecosystems. The streamside protection area shall include the creek channel, wetlands and/or riparian vegetation related to the creek hydrology, and an adjacent upland buffer area." Neither Alternative 2a nor 3 (nor 2b) proposes any change to this statement of the SPA's purpose.

As indicated in Table 3.4-6, the SEIR indicates that proposed changes to CE 2.2 under Alternatives 2a, 2b, and 3 have the potential to result in potentially significant biological impacts. Table 3.4-7 does not but should indicate that the changes to CE 2.2 under Alternative 2b have the potential for significant impacts. This error will be corrected in the Final SEIR. The potentially significant impact is the same for Alternative 2b as indicated for Alternatives 2a and 3. Table 3.4-8 identifies the factors that reduce the potential for significant impacts under Alternatives 2a, 2b, and 3. Table 3.4-8 and the text of the Final SEIR will be revised to include the following clarifications:

1. Alternative 2a proposes a change that applies the same standard to developed and non-developed areas; 50 feet would be the minimum width of the upland portion of the SPA, the alternative does not impose any restriction on the maximum width of the SPA, does not change restrictions on allowable uses or development standards within the SPA or designated ESHAs and ESHA buffers under the existing GP/CLUP, and does not exempt projects from site specific assessments and determinations in accordance with the GP/CLUP and applicable federal and state regulations. The results of the change are not

¹ In the comments received on proposed changes to CE 2.2, Alternative 1 is Alternative 1b as described in Table 2-1 of the Final SEIR.

substantially greater or different than determined in the Final EIR for the existing GP/CLUP; no unmitigated significant impacts would result.

2. Alternative 2b proposes that the mandated widths of the SPA be specified in a Citywide Ordinance rather than in the GP/CLUP. The mitigating factors will be clarified in the Final SEIR to indicate that adoption of such an ordinance is subject to CEQA review, which would address potential effects of special status species and habitats. It is recommended that an interim ordinance, consistent with the current adopted General Plan, be adopted as part of the approval of Alternative 2b (if this alternative is selected) to address creek setback issues as an interim measure that would remain in effect until the final Citywide Ordinance is finalized.
3. Alternative 3 differs from Alternative 2a in that it proposes a further clarification of the upland portion of the SPA. Alternative 2b also proposes wording to provide for case-by-case evaluations of the overall SPA. The factors and changes to the SEIR identified for Alternative 2a in item 1 above would essentially be the same for Alternative 3.

As a context for comparing and assessing the effects of the alternatives, the Final SEIR will include the following expanded descriptions and analyses:

1. To provide an indication of where the conservation of ESHAs and ESHA buffers could augment the protections of a 50-foot SPA, ESHA and other cover types within 50 and 100 feet of creeks in the City were identified based on the GIS files used to create Figure 4-1 in the existing GP/CLUP. The 50- and 100-foot areas were measured from the edge of the riparian/wetland vegetation mapped along the creek; only non-channelized portions of creeks were considered. The results indicate that other ESHA types occur within 50 and 100 feet of the riparian edge of at least 8 of the 12 creeks in the City. Along these creeks, there are approximately 13 acres of other ESHA types within 50 feet and approximately 28 acres within 100 feet of the riparian/wetland edges (Table 1). Where there are not other ESHA types, the lands within 100 and 50 feet are primarily developed, disturbed/landscaped, orchards/crops, and small amounts of nonnative grassland. The protection of SPAs in a natural state along these creek segments would not be augmented by the occurrence of other ESHA types. However, under the existing policy and alternatives, the determination of whether the SPA is being adequately protected in a natural state would be made based on site specific considerations, regardless of whether or not other ESHAs occur within 100 or 50 feet.
2. To quantify the difference in the resulting SPAs under Alternatives 1, 2a, and 3, two scenarios were examined using vacant parcels adjacent to creeks as the basis for the analysis. To approximate SPAs under the existing GP/CLUP, areas on vacant parcels within 100 feet of the riparian/wetland edge of creeks were mapped and categorized by land cover type using the GIS database for Figure 4-1 in the GP/CLUP. No adjustments were made where parcels were in developed areas and a 50-foot SPA (or narrower) would apply under the existing policy. The second scenario approximates the SPAs under Alternatives 2a and 3 by considering areas on vacant parcels within 50 feet of the riparian edge. No assumptions were made about site-specific conditions that would require a wider SPA, and no adjustments were made where a narrower SPA might be allowed. The results indicate that:
 - a. There are 12 vacant parcels within 100 or 50 feet of the riparian edge of creeks in the City (Figure 3.4-3). Six parcels would qualify for the 50-foot or narrower minimum SPA under the existing policy because of the level of adjacent development.

- b. If a 100-foot setback were applied to all 12 parcels, approximately 7 acres of upland vegetation would be captured in the SPAs, primarily nonnative grasslands. Most of the land within 100 feet is developed, disturbed/landscaped, or orchards/crops.
- c. If a 50-foot setback is applied to all 12 parcels, about 4 acres of upland vegetation would be the SPAs, primarily nonnative grassland.
- d. There is less than a 4-acre difference in the amount of upland vegetation captured by a 100- versus a 50-foot setback. If ESHAs are removed from the equation (since they would be conserved whether in or out of an SPA), the primary difference between the two buffers is about 3 acres of nonnative grassland. See Table 2.
- e. While it is not a substitute for the site specific considerations required when setting the width of the actual SPA for a parcel, the parcel-level evaluation herein supports the conclusions in the Draft SEIR regarding potential impacts to special status species and habitats from the changes proposed under Alternatives 2a and 3. There is not a substantially greater risk to such resources under Alternatives 2a and 3 than under the existing policy because such resources are limited within 100 or 50 feet of the creek, would be identified in the site-specific considerations for SPAs, and would be protected under ESHA provisions whether or not designated part of the SPA. Under the existing policy and Alternatives 2a and 3, the adequacy of the buffer to protect the SPA in a natural state would be determined on a site-specific basis – not by applying the minimum width allowed under CE 2.2. As a result, the effects of the alternatives are essentially the same.

TABLE 1
ESHA AND OTHER LAND COVER TYPES WITHIN 50 AND 100 FEET OF THE
RIPARIAN/WETLAND EDGE OF CREEKS IN THE CITY¹

Land Cover Type	Acres within 50 ft of Creek	Acres within 100 ft of Creek
Developed	59.6	129.7
Disturbed/Landscaped	11.0	18.0
Eucalyptus Woodland	7.3	15.5
Golf Course	5.1	10.0
Native Grassland	0.2	0.4
Native Upland Woodland/Savannah	1.5	2.5
Nonnative Grassland	10.1	20.7
Open Water	0.2	0.5
Orchards/Crops	9.0	18.8
Riparian/Marsh/Vernal ²	1.2	4.0
Sand	0.2	0.4
Scrub	1.7	4.0
Unvegetated Open Channel	0.3	0.9
Total	107.4	225.4
Notes		
ESHA types shown in bold.		
¹ Estimated and mapped based on GIS-database for Figure 4-1 in the existing GP/CLUP.		
² Riparian/Marsh/Vernal excludes riparian/wetland types along the edge of creek; limited to areas not connected to the riparian/wetland vegetation along the creek.		

TABLE 2
LAND COVER TYPES ON PORTIONS OF VACANT PARCELS WITHIN 100 AND 50 FEET
OF CREEKS¹

Land Cover Type	Acres on Vacant Parcels		Difference
	Within 100 ft of Creek	Within 50 feet of Creek	
Developed	0.753	0.599	0.154
Disturbed/Landscaped	8.500	4.000	4.500
Eucalyptus Woodland	0.867	0.552	0.315
Golf Course	0	0	0
Native Grassland	0	0	0
Nonnative Grassland	6.367	3.177	3.190
Open Water	0	0	0
Orchards/Crops	3.281	1.522	1.759
Riparian/Marsh/Vernal ²	0.114	0.049	0.065
Sand	0	0	0
Scrub	0	0	0
Unvegetated Open Channel	0	0	0
Total	19.882	9.899	9.983

Notes
 ESHA types shown in bold.
¹ Estimated and mapped based on GIS-database for Figure 4-1 in the existing GP/CLUP with overlay of vacant parcels.
² Riparian/Marsh/Vernal excludes riparian/wetland types along the edge of creek; limited to areas not connected to the riparian/wetland vegetation along the creek.

Amended Policy CE 2.2 Adopted by City in May 2009

In response to a GP/CLUP amendment (Case No. 07-102-GP) proposed in November 2007 (prior to the initiation of the SEIR for the track 3 amendments) and based on CEQA documentation prepared for the subject project (Haskell's Landing), the City adopted an amended version of CE 2.2 on May 19, 2009. The City also considered the comments received on the proposed changes to CE 2.2 addressed in the SEIR for the track amendments. The amended policy is stated below, with changes to the prior version of CE 2.2 underlined.

CE 2.2 Streamside Protection Areas. [GP/CP] A streamside protection area (SPA) is hereby established along both sides of the creeks identified in Figure 4-1. The purpose of the designation shall be to preserve the SPA in a natural state in order to protect the associated riparian habitats and ecosystems. The SPA shall include the creek channel, wetlands and/or riparian vegetation related to the creek hydrology, and an adjacent upland buffer area. The width of the SPA upland buffer shall be as follows:

- a. In areas where land has already been fully subdivided and developed, the SPA upland buffer shall not be less than 50 feet outward on both sides of the creek, measured from the top of the bank or the outer limit of associated wetlands and/or riparian vegetation, whichever is greater. Exceptions may be allowed in instances where existing permitted development on a subject parcel encroaches within the 50-foot buffer, only if:
 - (1) there is no feasible alternative siting for the development that will avoid the SPA;

- (2) the new development will not extend into an ESHA, and the resulting buffer will not be less than 25 feet; and
 - (3) the new development will not encroach further into the SPA than the existing development on the parcel.
- b. In all other instances, the SPA upland buffer shall not be less than 100 feet outward on both sides of the creek, measured from the top of the bank or the outer limit of associated wetlands and/or riparian vegetation, whichever is greater. If there is no feasible alternative siting for the development that will avoid the SPA, the City may consider changing the width of the SPA upland buffer on a case-by-case basis at the time of environmental review. Based on a site-specific assessment, the City may designate portions of an SPA upland buffer to be less than or greater than 100 feet wide, but not less than 50 feet, only if:
- (1) substantial beneficial environmental improvements to the creek, its SPA, and/or related ESHAs are to be made as part of the project;
 - (2) the new development will not extend into an ESHA, and the resulting buffer will not be less than 50 feet; and
 - (3) the project's impacts will not have significant adverse effects on streamside vegetation or the biotic quality of the stream.
- c. If the provisions above would result in any legal parcel created prior to the date of this plan being made unusable in its entirety for any purpose allowed by the land-use plan, exceptions to the foregoing may be made to allow a reasonable economic use of the parcel, subject to approval of a conditional use permit.
- (Amended by Reso. 09-30, 5/19/09)*

Compared with the alternatives considered in the SEIR, this newly adopted policy can be viewed as a combination of Alternative 1 and 3. Technically the new policy is the existing GP/CLUP policy. For purposes of the Final SEIR, the new policy is identified as Alternative 1a and the prior policy is identified as Alternative 1b in Table 2-1. The analysis in the Draft SEIR of potential impacts associated with alternatives does not require revision because the potential effects of Alternative 1a are encompassed by the analysis of Alternatives 1b and 3. Although no longer the existing policy, Alternative 1b has been retained in the Final SEIR as a potential choice for the City. That action is covered both by the Final SEIR and the 2006 Final EIR for the GP/CLUP. A footnote has been added to Table 2-1 indicating that there are five alternatives for changes to CE 2.2. Sections 3.4.2.3 and 3.4.3.2 have been revised to indicate that the City adopted a new CE 2.2 in May 2009. The Final SEIR, including the responses to comments, also has been revised to indicate that all comments received on the Draft SEIR recommending that Alternative 1 be adopted are premised on the prior version of CE 2.2 in the GP/CLUP.