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December 1, 2006

To: Arthur Aslanian
Pineview Homes, LLC
15303 Ventura Blvd, #1080
Sherman Oaks, CA 91403

Re: Reconsideration, MND No. 2004-2839: 11130-11160 Oro Vista Avenue

The Environmental Review Section of the Department of City Planning has determined that the previously issued Mitigated Negative Declaration (MND No. 2004-2839) does not address all areas of potential environmental impacts due to changes in the proposed project. These changes include: a decrease in the number of proposed single family homes from 30 to 20, requests for a Zone change from RA-1 to RS-1 over a portion of the site having a land use designation of Low Residential, a Zone Variance from RA Zone development standards over a portion of the site having a land use designation of Very Low II, as stated in the project description below, and a potential Project Permit Compliance review. Additional mitigation measures, that were not included in the original MND, are necessary to mitigate haul route impacts and impacts to biological resources to less than significant levels, as required by the California Environmental Quality Act (CEQA). The additional mitigation measure is as follows:

“VI b1. Haul Routes

Environmental impacts on pedestrians and vehicles may result from project implementation due to haul routes. However, the potential impact will be mitigated to a level of insignificance by the following measures:

- Projects involving the import/export of 1000 cubic yards or more of dirt are subject to haul route approval by the Department of Building and Safety.
- The developer should install appropriate traffic signs around the site to ensure pedestrian and vehicle safety.
- Fences shall be constructed around the site to minimize trespassing, vandalism, shortcut attractions and attractive nuisances.”

“IV d. Biological Resources

The project shall incorporate the recommended measures listed on pages 10-17 in the biological resources technical report (See attached.), prepared by Chris Joseph and Associates, that was submitted to the Environmental Review Unit for review on November 9, 2006 so as to reduce all potential impacts to biological resources to less than significant levels”



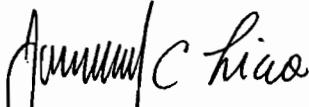
The project description is hereby amended to read:

“A proposed 20-lot subdivision for single-family homes on a site consisting of a gross area of approximately 219,128 square feet, currently zoned RA-1; Zone change from RA-1 to RS-1 over that portion (approximately 89 percent) of the site having a land use designation of Low Residential; Zone Variance from RA Zone development standards over that portion (approximately 11 percent) of the site having a land use designation of Very Low II. The variance applies to one partial and two complete proposed lots of the project and include a minimum lot area of 7,500 square feet in lieu of 17,500 square feet, a minimum lot width of 60 feet in lieu of 70 feet, a side yard of 5 feet and rear yard of 20 feet in lieu of a side yard of 10 feet and rear yard of 25% of lot depth not to exceed 25 feet; potential Project Permit Compliance review; project is subject to haul route approval.”

Due to the fact that the project requires additional mitigation measures as well as additional or significant modifications in discretionary requests, a public circulation period is required.

Sincerely,

S. Gail Goldberg
Director, City Planning

A handwritten signature in black ink, appearing to read "Jimmy Liab". The signature is written in a cursive style with a large, stylized initial "J".

Jimmy Liab
City Planner

JR

Table 2. Special-status wildlife species with a currently or formerly moderate to high potential to occur on-site.

Scientific Name	Common Name	Former Potential to Occur On-site	Current Potential to Occur On-site	Status ⁴
<i>Onychomys torridus ramona</i>	southern grasshopper mouse	Moderate	Moderate	CSC
<i>Taxidea taxus</i>	American badger	Moderate	Low*	CSC

*Low potential to occur on-site the project site; however, may occur adjacent to the site.

During the site visit, several bird species were observed either on or adjacent to the site, including black phoebe (*Sayornis nigricans*), Anna's hummingbird (*Calypte anna*), cliff swallow (*Hirundo pyrrhonota*), and common raven (*Corvus corax*). Although these species are not uncommon, they are all listed in Title 50 of the Code of Federal Regulations as Migratory Birds, which are protected under the federal Migratory Bird Treaty Act (MBTA), and therefore meet CEQA criteria as "sensitive" species. No additional special status wildlife species were identified during the site visits. However, the site visits were intended only to assess the potential for these species to occur based on the presence of potential habitat; the habitat assessment is not intended to substitute for protocol-level surveys. Refer to Appendix B for a list of wildlife observed during the site visit.

4.0 DISCUSSION AND RECOMMENDATIONS

Although the site currently supports little vegetation due to recent fuel modification activities, there is still the potential for sensitive biological resources to occur on-site due to the proximity of known occurrences in the vicinity and the remaining on-site features (trees, soil type). The sensitive natural resources with potential to be impacted during project construction are discussed below, and recommendations are given to avoid or reduce the potential for impacts to these resources.

4.1 Sensitive Natural Communities and Site Features

4.1.1 Riversidean Alluvial Fan Sage Scrub. This plant community presumably occurred in the northern 1/3 of the site prior to recent fuel modification activities, as indicated by old aerial photographs and remaining vegetation immediately adjacent to and north of the site and in the nearby vicinity (as documented in the CNDDDB). Although Riversidean alluvial fan sage scrub is considered to be an extremely endangered plant community by CDFG, the small amount that was present on-site (approximately 2 acres) appears to have been heavily disturbed (based on the number of dirt tracks/trails traversing through it on the 2004 aerial photograph) and is isolated from the large amount of contiguous Riversidean alluvial fan sage scrub habitat just west of Oro Vista Avenue south of Big Tujunga Creek, most or all of which is preserved on City land. Therefore, the removal of the Riversidean alluvial fan sage scrub community on-site (for fuel

modification or development activities) would not be considered a significant impact under CEQA, as it will not result in a substantial adverse effect on, or threaten to eliminate, a natural community.

4.1.2 Potentially Jurisdictional Waters. The drainage feature on-site appears to be a remnant feature which no longer supports ephemeral or intermittent flows, as most or all of the sheetflow from the watershed is now captured by municipal street drains immediately east of the site which is transported under the site through an engineered drainage structure and into Big Tujunga Creek.

The Corps regulates the placement of fill into any "waters of the U.S." under Section 404 of the federal Clean Water Act, which generally defines non-tidal waters by an Ordinary High Water (OHW) mark such as a clear, natural line impressed on the bank, shelving, changes in the character of the soil, destruction of terrestrial vegetation or the presence of litter and debris (usually as an obvious flow pattern within debris or sediment) (33 CFR 329.1). In the arid and semi-arid regions of the southwestern United States, the Corps recognizes additional indicators of "waters of the U.S." including intermittent or ephemeral surface flow, a natural scour line impressed upon the bank, absence of native vegetation, eroded stream banks, stain or salt deposits, sand or clay deposits, algae mats or crusts (USACE 2001). The remnant drainage feature on-site did not clearly exhibit any of the aforementioned indicators which the Corps recognizes to identify jurisdictional "waters of the U.S.". Although the metal culvert under Oro Vista Avenue along the western edge of the site did exhibit staining, this is likely remaining from a time prior to the installation of the engineered underground drainage bypass when water did flow in the channel on-site; no such staining, or other indicators of flow were observed even in the westernmost extent of the channel before the culvert (see photos in Appendix C).

Under Section 1600 of the Fish and Game code, CDFG regulates the physical alteration of streambeds or lakes which provide habitat for aquatic life including fish, invertebrates and riparian vegetation. According to Section 1602, "no entity may substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake" without an agreement from CDFG. Due to the lack of flow in the remnant drainage feature on-site, and the fact that it does not support any aquatic life, it is not likely that this feature would be considered jurisdictional by CDFG. In addition, standard Best Management Practices implemented during project construction and implementation of a Stormwater Management Plan prepared for the project will ensure that no debris, waste or other such materials will flow off-site

or be deposited into a river, stream, or lake.

Under Section 401 of the federal Clean Water Act and under the State's Porter-Cologne Act, the RWQCB is responsible for maintaining water quality in and regulating the discharge of pollutants into "waters of the state", which are defined as "any surface or groundwater within the boundaries of the state." As the on-site remnant drainage feature does not exhibit any indicators of surface or groundwater, it is not considered a "waters of the state" and, therefore, is not likely to be considered jurisdictional by the RWQCB. Generally, wetlands or waters that meet the Corps' criteria of a "waters of the U.S." are also considered "waters of the state"; however, since the channel does not appear to meet the criteria to be considered a "waters of the U.S.", it is likely also not a "waters of the state"⁵. Standard Best Management Practices implemented during project construction and implementation of a Stormwater Management Plan prepared for the project will preserve water quality in the region.

Due to the fact that the on-site remnant drainage feature is unlikely to be considered jurisdictional by the Corps, CDFG, or the RWQCB, and it does not support flowing water or aquatic life, impacts to this feature are not considered significant under CEQA.

4.1.3 Protected Trees. The City of Los Angeles considers the following native trees to be protected under Ordinance 177,404 if they measure four inches or more in cumulative diameter at 4.5 feet above the ground: (a) oaks (*Quercus* sp.), (b) Southern California black walnut (*Juglans californica* var. *californica*), (c) Western sycamore (*Platanus racemosa*), and (d) California bay (*Umbellularia californica*). A recent tree study (Trees, etc. 2006) determined that the site contains no protected trees. Further, the tree report concludes: "None of this project's 'on-site' trees are worth saving or transplanting."

However, it is the City's current policy to require replacement of mature or significant non-protected trees at a 1:1 ratio. Five trees were found on-site greater than 12 inches in diameter at 4.5 feet above the ground. If these trees are not replaced, the project may result in a significant impact due to a conflict with a local policy protecting biological resources.

Recommendation: For each of the five mature trees present on-site removed during

⁵ As a result of the SWANCC vs. USACE Supreme Court decision in 2001, some wetlands or waters which are not considered jurisdictional by the Corps, such as "isolated" wetlands, can be considered jurisdictional by the RWQCB as "waters of the state". However, these features must first meet the criteria established by the Corps (i.e. flow regime indicators, ordinary high water mark indicators, wetland hydrology, hydrophytic vegetation, hydric soils). If these features meet the criteria, but are not considered jurisdictional by the Corps based on other technical parameters (i.e. adjacency to a navigable water), then they may still be considered a "waters of the state" subject to RWQCB jurisdiction and regulation.

construction, one 24-inch box specimen tree shall be planted as required through coordination with the City for permission to remove the on-site trees.

4.2 Special Status Plant Species

The site currently has a moderate potential to support eight special status plant species, as shown in Table 1.

Recommendations:

- (1) In order to conclude the presence or absence of the eight special status plants species with a currently moderate potential to occur on-site, protocol-level rare plant surveys are recommended within the Study Area prior to construction activities. Based on the reported blooming periods of these eight species, it is recommended that three separate surveys occur beginning in March and ending in June (specific dates will depend on climate and rainfall of the survey year). If any of these plant species are located, the survey will determine the number of individuals present and the limits of the area occupied by the population, and one of the following additional mitigation measures will be implemented:
 - (a) avoidance and permanent protection of the on-site population;
 - (b) permanent preservation of an existing, off-site population of the species in the region at a 2:1 acreage ratio and a similar population size (1:1 ratio); or
 - (c) transplant the individuals to permanently preserved habitat off-site at a 2:1 acreage ratio (preferably adjacent to the site or in close proximity).

Each additional mitigation option above (a – c) shall include the preparation of a Preservation Plan (under a or b) or a Mitigation Plan (under c) by a qualified biologist/botanist, to be submitted to and approved by the City and other responsible agencies as applicable. Since two of the plant species with potential to occur on-site are federal and state listed species (Parry's spineflower, federal candidate and state endangered; and slender-horned spineflower, federal and state endangered), if these species are found on-site then the Plan will be developed in consultation with the USFWS and/or CDFG through their respective "take" permit processes. The Plan shall include the location and extent of the preserved or transplanted individuals, measures to ensure protection of the population during and following project implementation (in perpetuity), including a mechanism to ensure permanent preservation of the population from development such as a conservation easement or agreement with the landholder (such as

the City). The Plan shall also include methods to transplant the individuals (if applicable), measures to maintain the population (i.e. weed control), and methods to monitor the population for a minimum of five years following preservation or transplantation, including performance criteria and contingency measures in case of failure to meet performance criteria.

4.3 Special-Status Wildlife Species

4.3.1 Fishes. No special status fish species have the potential to occur on-site, including the federal endangered Santa Ana sucker (*Catostomus santaanae*). Although this species is known to occur in Big Tujunga Creek, and the USFWS designated Big Tujunga Creek to be within critical habitat for the species, no suitable aquatic habitat for this species occurs on-site. The Santa Ana sucker prefers streams with sand-rubble-boulder bottoms with cool, clear water and algae. The remnant drainage feature on-site does not exhibit these characteristics.

4.3.2 Reptiles. Three special status reptile species (silvery legless lizard, coastal western whiptail, and San Diego coast horned lizard) which are CDFG Species of Concern have a high potential to occur on-site despite the recent vegetation removal and soil disturbance, as these species prefer loose substrates with open to sparse vegetation. Although fuel modification activities may have removed individuals of these species which may have occurred on-site previously, these species probably occur in the sage scrub habitat near the site and may migrate to the project site, as Oro Vista Avenue is not considered a true barrier to wildlife dispersal given the relatively low amount of traffic.

Recommendation: In order to avoid impacts to these sensitive reptile species from project construction, it is recommended that (1) an exclusion fence be constructed around the site (i.e. silt fencing or similar material sufficient to exclude reptiles) to prevent individuals from migrating on-site, (2) a pre-construction survey of the site be conducted for individuals no more than 30 days prior to ground-disturbing activities and any encountered individuals be captured and relocated to adjacent protected habitat (i.e. west of Oro Vista Avenue on City property). Pre-construction surveys and capture/relocation activities shall be conducted by a qualified biologist according to standard herpetological standards and a report of these activities shall be prepared and submitted to the City and CDFG no more than 15 days following such activities.

4.3.3 Birds. The few remaining trees on-site, as well as adjacent undisturbed sage scrub habitat and other trees and shrubs on adjacent properties, provide suitable nesting habitat for other birds, such as migratory birds and raptors, which are protected under the federal Migratory Bird Treaty Act and the state Fish and Game Code (Sections 3503, 3503.5, and 3512). Disturbance to

nesting birds from construction activities may be considered a significant impact.

In addition, two special-status bird species (burrowing owl, a CDFG Species of Concern; and Coastal California gnatcatcher, a federal threatened species and CDFG Species of Concern) are not currently expected to occur on-site due to recent fuel modification activities which removed nearly all site vegetation and disturbed the soil; however, they have the potential to nest in undisturbed habitats adjacent to the site. Sage scrub habitat adjacent to and north of the site, although limited and somewhat disturbed, has the potential to support Coastal California gnatcatcher. Several suitably-sized ground squirrel burrows were observed on the property west of Oro Vista Road, some immediately along the road and within 30 feet of the site; however, no signs of burrowing owls occupying these burrows were observed (such as white-wash or pellets). Potential noise, vibration, or other disturbance impacts from project implementation may result in a significant impact to these sensitive species. In addition, due to the ground squirrel population adjacent to and west of the site, it is possible that new burrows may be formed on-site prior to construction activities which could become occupied by burrowing owls (it is not uncommon for burrowing owls to colonize fallow and/or previously disturbed or graded areas); if burrowing owls colonize the site prior to construction, project construction may result in significant impacts to the species.

Recommendations:

(1) To avoid impacting nesting birds, one of the following must be implemented:

- a) Conduct grading, vegetation removal and construction activities from August 16 through February 14, when birds are not nesting. Initiate construction activities prior to the breeding season (February 1 through August 31) and keep disturbance activities constant throughout the spring to prevent birds from establishing nests in surrounding habitat in order to avoid abandonment of eggs or young if nesting establishes prior to construction activities;

- OR -

- b) Conduct pre-construction surveys for nesting birds if construction is to take place during the nesting season. A qualified wildlife biologist shall conduct a pre-construction nest survey no more than 5 days prior to initiation of grading to provide confirmation on presence or absence of active nests in the vicinity (at least 300 feet around the project site). If active nests are encountered, species-specific measures shall be prepared by a qualified biologist in consultation with the CDFG and implemented to prevent abandonment of the active nest. At a minimum, grading in

the vicinity of the nest shall be deferred until the young birds have fledged. A minimum exclusion buffer of 50 feet for songbird nests, and at least 200 feet for raptor nests, shall be maintained during construction, depending on the species and location. The perimeter of the nest-setback zone shall be fenced or adequately demarcated with staked flagging at 20-foot intervals, and construction personnel and activities restricted from the area. A survey report by the qualified biologist verifying that (1) no active nests are present, or (2) that the young have fledged, shall be submitted to the County, CDFG and USFWS prior to initiation of grading in the nest-setback zone. The qualified biologist shall serve as a construction monitor during those periods when construction activities will occur near active nest areas to ensure that no inadvertent impacts on these nests will occur.

- (2) In order to avoid adverse impacts to any burrowing owls that may occupy burrows immediately west of the site (west of Oro Vista Avenue), implement measure (1) above except maintain a buffer of 50 meters (160 feet) from an occupied burrow, if found.
- (3) In order to avoid adverse impacts to any burrowing owls that may colonize the site prior to construction activities, conduct one of the following:
 - a) Prevent the development of new burrows on-site during the period prior to construction to prevent colonization by burrowing owls;
 - OR -
 - b) A wintering burrowing owl survey is recommended during the winter (before February 1) prior to anticipated construction activities to locate any occupied burrows. Surveys shall be conducted in accordance with the California Burrowing Owl Consortium's Survey Protocol and Mitigation Guidelines (CBOC 1993). Results of pre-construction surveys shall be reported to the City and CDFG prior to construction. If owls are found on-site, passive relocation of individuals shall be conducted in coordination with CDFG prior to (or outside of) the breeding season so that the occupied burrow is not disturbed during nesting season (February 1 through August 31). Suitable off-site (preferably adjacent) habitat shall be permanently preserved (i.e. through a conservation easement) per the CBOC mitigation ratios per pair or single bird (9.75 acres of occupied habitat, 13 acres of contiguous occupied habitat, or 19.5 acres of unoccupied habitat).

- (4) Although the Study Area no longer supports sage scrub habitat due to recent fuel modification activities, such habitat still exists immediately adjacent to the site to the north and beyond Oro Vista Avenue to the west. Although recommendation (1) above regarding timing restrictions for nesting birds may be satisfactory to avoid potential impacts to coastal California gnatcatchers that may still breed adjacent to the site, gnatcatchers may still reside adjacent to the site during the non-breeding season and could be harassed or harmed during construction. Since coastal California gnatcatcher is a federal threatened species, care should be taken to avoid impacts to the maximum extent feasible. Therefore, protocol-level surveys in habitat adjacent to site according to USFWS survey requirements are recommended to determine whether the species exists near the site and may be impacted by the development. These surveys include six (6) separate visits by a permitted biologist during the peak nesting season for the species (March 15 through June 15) or nine (9) visits from July 1 through March 14. If the species is found during surveys, consultation with USFWS may be required in order to prevent unauthorized incidental "take" (such as harm or harassment), prohibited by the federal endangered species act, resulting from the development.

4.3.4 Mammals. One special-status mammal species (southern grasshopper mouse, a CDFG Species of Concern) currently has a moderate potential to occur on-site despite the recent vegetation removal and soil disturbance, as this species prefers friable soils with low to moderate shrub coverage. Although fuel modification activities may have removed individuals of these species which may have occurred on-site previously, these species probably occur in the sage scrub habitat near the site and may migrate to the project site, as Oro Vista Avenue is not considered a true barrier to wildlife dispersal given the relatively low amount of traffic. Two special status mammal species (San Diego black-tailed jackrabbit and American badger, both CDFG Species of Concern) currently only have the potential to nest in undisturbed habitats adjacent to the site; these species are no longer likely to occur on-site due to recent fuel modification activities which removed nearly all site vegetation and disturbed the soil.

Recommendations: The recommendations given under 4.3.1 – Reptiles regarding exclusion fencing and pre-construction surveys, capture and relocation would also apply to these special status mammal species.