



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
South Coast Region  
3883 Ruffin Road  
San Diego, CA 92123  
[wildlife.ca.gov](http://wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



September 20, 2023

Norm Pedersen  
Associate Planner  
City of San Marcos  
1 Civic Center Drive  
San Marcos, CA 92069  
[NPedersen@san-marcos.net](mailto:NPedersen@san-marcos.net)

**Subject: Woodward 46 Specific Plan, Notice of Preparation of a Draft  
Environmental Impact Report, SCH #2023080449**

Dear Norm Pedersen:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) from the City of San Marcos (City) for the Woodward 46 Specific Plan project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding the activities involved in the Woodward 46 Specific Plan Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

**CDFW Role**

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State [Fish & G. Code, §§ 711.7, subdivision (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect state fish and wildlife resources.

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<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in “take” as defined by State law of any species protected under the California Endangered Species Act (CESA; Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City was a local jurisdiction participant in the planning of the Subregional Multiple Habitat Conservation Program (MHCP) in the late 1990’s and early 2000’s. The City had prepared a draft Subarea Plan under the Subregional MHCP, which addressed regional conservation planning across seven incorporated jurisdictions on northern San Diego County. However, the San Marcos Subarea Plan was not finalized, and state and federal permits have not been issued to the City. To date, only the City of Carlsbad has received permits pursuant to the MHCP; however, the conservation principals in the subregional MHCP remain extremely relevant for development projects occurring in San Marcos and the other jurisdictions, and should be seen as a strong guide toward assessing the significance of impacts to biological resources under CEQA.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** City of San Marcos

**Project Location:** The 8.75-acre Project site is located within the Richland neighborhood in City of San Marcos, San Diego County, California. The Project site consists of a vacant parcel located at Assessor’s Parcel Number 220-210-49-00, just east of Woodward Street, between Mission Road to the south and Vineyard Road to the north. The Project site is bounded by existing residential development to the east and northeast, a new housing development is under construction to the south, Woodward Street borders the western Project edge, and the northern boundary of the site is directly adjacent to a 7.73-acre open space easement which is considered MHCP Focused Planning Area (FPA) Hardline Preserve. The Project site has a General Plan Designation of Specific Plan Area and is associated with the Heart of the City Specific Plan. The Project site is undeveloped and steeply sloped with elevation ranging from 754 feet above mean sea level in the eastern portion of the Project site down to 615 feet in the southwestern portion of the Project site.

### **Project Description:**

The Project applicant will be requesting approval of a General Plan Amendment to establish new development criteria as the old specific plan for the area had not been adopted by the City. Under the proposed Woodward 46 Specific Plan, 5.7 dwelling units

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per acre will be allowable development. The Project proposes 46 duplex multi-family units, 23 total buildings consisting of 2 units each, a common open space park, and water quality basin. The Project is anticipated to start construction in 2025. Grading will consist of approximately 41,989 cubic yards (CY) of cut material and 50,270 CY of fill material requiring an export of approximately 8,281 CY of material. The Project design incorporates retaining walls to manage the topography of the site and create areas for the access driveway and building pads. Primary access to the Project site is via one 24-foot wide, ungated, unsignalized driveway connected from Woodward Street.

### **Biological Setting:**

The Project site consists of 5.49 acres of Diegan Coastal Sage Scrub (DCSS), 0.26 acres of disturbed DCSS, 0.05 acre of disturbed habitat, and 0.03 acre of Urban/Developed land cover. The Full Biological Resource Report (Rincon Consultants, Inc. 2023; FBRR) indicates that suitable habitat on the Project site was determined for two special status plant species and five special status wildlife species. San Diego ambrosia (*Ambrosia pumila*; ESA listed Endangered; California Native Plant Society (CNPS) List 1B, Rarity-Endangerment-Distribution (RED) 3-3-2) and San Diego sand aster (*Corethrogyne filaginifolia* var. *incana*; ESA listed Endangered; CNPS List 1B, RED 3-3-2) have low to moderate potential to occur onsite as they are associated with disturbed habitats. Two special status wildlife species have been observed within the Project area, namely, coastal California gnatcatcher (gnatcatcher; *Polioptila californica californica*; ESA listed Threatened; CDFW Species of Special Concern (SSC); MHCP-covered species) and Cooper's hawk (*Accipiter cooperii*; CDFW Watch List; MHCP-covered species). Three other wildlife species have a high potential to occur within the Project area; orange-throated whiptail (*Aspidoscelis hyperythra*; CDFW Watch List), coastal whiptail (*Aspidoscelis tigris stejnegeri*; SSC), and San Diego desert woodrat (*Neotoma lepida intermedia*; SSC). A review of CNDDDB and Research Grade iNaturalist sightings also indicate that there is potential for Crotch's bumble bee (*Bombus crotchii*; CESA candidate) onsite.

### **COMMENTS AND RECOMMENDATIONS**

CDFW offers the following comments and recommendations to assist the City of San Marcos in adequately identifying and/or mitigating Project impacts on biological resources and to ensure regional conservation objectives in the MHCP and draft City of San Marcos SAP would not be eliminated by implementation of the Project.

#### **Specific Comments:**

- 1) The San Diego Subregional Multiple Habitat Conservation Plan (MHCP). The MHCP is a comprehensive conservation planning process that addresses the needs of multiple plant and animal species in northwestern San Diego County. The MHCP encompasses the cities of Carlsbad, Encinitas, Escondido, Oceanside, San Marcos, Solana Beach, and Vista. The MHCP is one of several

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large multiple-jurisdictional habitat planning efforts in San Diego County, each of which constitutes a subregional plan under the State of California's NCCP Act of 1991.

Although the City of San Marcos has not adopted their draft Subarea Plan, CEQA Guidelines section 15125(d) requires that an EIR discuss any inconsistencies between a proposed Project and applicable general plans and regional plans, such as the MHCP. Additionally, DCSS impacted by this Project is part of a contiguous block of 16.72 acres of gnatcatcher-occupied DCSS habitat, which includes vegetation contained in the MHCP Hardline Preserve to the north, northeast, east, and west of the Project boundary as depicted in Figure 7 in the FBRR. The vegetation communities surrounding the site are designated as Focused Planning Area (FPA) identified in the MHCP. The MHCP FPA consists of core areas of essential habitat, locations of listed or otherwise highly sensitive species populations, buffers to those species/habitats, and connections to maintain viability of potentially fragmented populations across northern San Diego County.

Project activities that may result in adverse impacts to the FPA should be addressed in the DEIR. Furthermore, the DEIR should include a discussion of any Project inconsistencies with the MHCP to meet CEQA requirements.

- 2) Coastal California Gnatcatcher. Gnatcatcher was detected onsite during protocol surveys in 2018 and 2020 and suitable habitat for gnatcatcher is present onsite and adjacent to the Project site. Gnatcatcher is likely to be present onsite. The DEIR should include a complete, recent habitat assessment for suitable gnatcatcher habitat. Protocol level surveys were completed May-June 2023, and while no observations of gnatcatcher were made, CDFW recommends DCSS habitat mitigation reflects occupancy of this special status species. The NOP states that the Project will mitigate impacts to DCSS at a 1:1 ratio based on the location of the Project site being outside of FPA. The issue with this proposed mitigation ratio is that it is based on a finalized NCCP MHCP subarea plan. The City of San Marcos does not have a finalized plan; higher mitigation ratios are typically applied in jurisdictions undergoing regional planning or otherwise have not yet committed to a long-term regional conservation effort. Therefore, CDFW recommends that permanent impacts to DCSS are mitigated at a ratio greater than 1:1 because the Project site contains high suitability DCSS habitat, is directly adjacent to FPA, and protocol level surveys have observed gnatcatcher breeding pairs, CDFW recommends a ratio of 3:1 to offset the proposed permanent impacts to DCSS on the Project site. Additionally, CDFW recommends that the Project applicant coordinate directly with the USFWS Carlsbad Fish and Wildlife Office regarding additional surveys and measures to potentially permit, if necessary, impacts to the federally listed gnatcatcher.

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- 3) Fire Fuel Modification. The draft City of San Marcos SAP states that residential and commercial structures adjacent to the preserve will be separated by a 100-foot setback or buffer, as indicated by the Fire Marshal (City of San Marcos SAP, Section 7.5). The Final MHCP Volume I states brush management to reduce fire fuels and protect urban uses will occur where development is adjacent to the preserve. Where new development is planned, this brush management zone will be incorporated within development boundaries to reduce encroachment on the preserve (MHCP Section 6.3.4). Additionally, per the Initial Study, there are two easements on the site associated with vegetation management for fire fuels reduction which are associated with existing, adjacent developments. The Project will also implement a zoned brush management plan to provide a 150-foot buffer and abide by CAL FIRE guidance for three zones of defensible space. However, these impacts are not clearly delineated in the FBRR, and it is not discussed whether these buffer zones are planned within the Project impact area, or if brush management could impact the DCSS within the MHCP FPA Hardline Preserve.

The DEIR should include information as to how the Project impact area or adjacent land may be affected by fuel modification requirements. A discussion of any fuel modification requirements for this Project should be included in the DEIR to allow CDFW to assess potential impacts to biological resources. CDFW recommends all fuel modification requirements be met on the Project site, and not in mitigation lands or habitat adjacent to the Project. Fuel modification should not adversely impact resources in the adjacent areas or mitigation lands. Habitat being subjected to fuel modification (e.g., thinning, trimming, removal of mulch layer) should be considered an impact to these vegetation communities and mitigated accordingly. CDFW also recommends any irrigation proposed in fuel modification zones drain back into the development and away from natural habitat areas because perennial sources of water may have negative impacts, such as facilitating establishment of the invasive Argentine ant (*Linepithema humile*).

- 4) Crotch's bumble bee. Crotch's bumble bee and its habitat may be potentially impacted by the Project as an occurrence was identified approximately 2.5 miles from the Project site. Currently, Crotch's bumble bee is a candidate under CESA and is not a covered species in the City's SAP. The DEIR should include avoidance, minimization, and mitigation measures for potential impacts to this species. CDFW recommends that a qualified biologist conduct surveys for this candidate species within the Project area during the bumble bee's flight period (typically March 1st through mid-October). Please refer to CDFW's Survey Consideration for California Endangered Species Act Candidate Bumble Bee

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Species<sup>2</sup> for further guidance. If Crotch's bumble bee is detected, CDFW requests that any observations are recorded using photographs and GPS points to report to the California Natural Diversity Database (CNDDDB). Furthermore, if the species is detected and take may occur, the qualified biologist shall notify CDFW immediately to avoid take and ensure compliance with CESA.

- 5) Sensitive Bird Species. Based on the location of the Project, there is potential for special-status bird species, such as coastal California gnatcatcher, to occur onsite and in surrounding habitat. Project activities occurring during the avian breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment in habitat directly adjacent to the Project boundary. The Project and related brush management zones could also lead to the loss of foraging habitat for sensitive bird species.
  - a. CDFW recommends that measures be taken, primarily, to avoid Project impacts to nesting birds. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the MBTA). Project activities including (but not limited to) staging and disturbances to native and nonnative vegetation, structures, and substrates should occur outside of the avian breeding season which generally runs from February 15 through August 31 (as early as January 1 for some raptors) to avoid take of birds or their eggs. If avoidance of the avian breeding season is not feasible, CDFW recommends surveys by a qualified biologist with experience in conducting breeding bird surveys to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300-feet of the disturbance area (within 500-feet for raptors). Project personnel, including all contractors working onsite, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors. CDFW recommends the biologist provide notification to Wildlife Agencies (CDFW and USFWS) if there are active nests within vegetation clearing zones and if buffer reductions are being considered.
- 6) Biological Direct, Indirect, and Cumulative Impacts. Woodward 46 Specific Plan Project site abuts open space designated as MHCP FPA Hardline Preserve to the north, east, and southwest. These areas of conservation are particularly

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<sup>2</sup> <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>

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biologically important to the regional conservation strategy. The FPA was designed to conserve as much of the Biological Core and Linkage Area as possible, minimize preserve fragmentation, maximize use of existing public lands and open space, and maintain private property rights and economic viability (MHCP Executive Summary 2003). Due to the proximity of the Project site to the MHCP FPA Hardline Preserve, it is essential to understand how the open space and biological diversity within it may be impacted by Project activities. CDFW recommends providing a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. The following should be addressed in the DEIR:

- a. A discussion regarding indirect Project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., preserve lands associated with an NCCP (NCCP, Fish & G. Code, § 2800 et. seq.). Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the DEIR.
  - b. A discussion of potential adverse impacts from lighting, noise, temporary and permanent human activity, and exotic species and identification of any mitigation measures. CDFW recommends any fragmented DCSS habitat remaining within the Project area be considered permanently impacted and mitigated accordingly.
  - c. A discussion on Project-related changes on drainage patterns downstream of the Project site; the volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project site, such as the water quality basin proposed for construction. Mitigation measures proposed to alleviate such Project impacts should be included.
  - d. An analysis of impacts from land use designations and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the DEIR.
  - e. A cumulative effects analysis, as described under CEQA Guidelines section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.
- 7) Biological Baseline Assessment. CDFW recommends providing a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project site, with emphasis upon identifying endangered, threatened, sensitive, regionally and locally unique species, including any Covered Species under the City's draft SAP, and sensitive habitats. Although CDFW recognizes the City of San Marcos SAP was not adopted, it remains a valuable reference to evaluate

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the importance of local biological resources and the potential implications to long-term conservation objectives within and beyond the City's boundaries. Absent this recognition the City's actions could cause further decline of species and their requisite habitats, including biological connectivity, leading to the need to list species as threatened or endangered. The Project impact analysis should therefore address direct, indirect, and cumulative biological impacts, as well as provide specific mitigation or avoidance measures necessary to offset those impacts. CDFW generally recommends avoiding any sensitive natural communities found on or adjacent to the Project, and where such impacts would occur, that the provisions of the draft City of San Marcos SAP be followed to avoid conflicts with the subregional MHCP planning effort. The DEIR should include the following information:

- a. A complete floristic assessment within and adjacent to the Project area, with particular emphasis upon identifying endangered, threatened, sensitive, and locally unique species and sensitive habitats. This should include a thorough, recent, floristic-based assessment of special status plants and natural communities.
  - i. CDFW further recommends targeted surveys for federally listed San Diego ambrosia and San Diego sand aster. If either of these species are detected, CDFW recommends that the Project applicant coordinate directly with the USFWS Carlsbad Fish and Wildlife Office regarding additional surveys and measures to address, if necessary, impacts to these species.
- b. A complete, recent, assessment of the biological resources associated with each habitat type onsite and within adjacent areas that could also be affected by the Project. CDFW's California Natural Diversity Database (CNDDDB) should be reviewed to obtain current information on any previously reported sensitive species and habitat. CDFW recommends that CNDDDB Field Survey Forms be completed and submitted to CNDDDB to document survey results. Online forms can be obtained and submitted at <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. Vegetation mapping should follow criteria and definitions developed for the subregional MHCP. More specifically, areas of the property which may show invasion by non-native forbs (e.g., mustards, etc.) should nonetheless be identified as non-native grassland vegetation and any impacts mitigated accordingly. Such areas should not be categorized as 'Disturbed' or ruderal unless there is strong documentation that the property had been subject to an authorized use which caused a truly disturbed condition of the vegetation.

### **General Comments:**

- 8) Compensatory Mitigation. The DEIR should include mitigation measures for adverse Project-related impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of Project

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impacts. For unavoidable impacts, onsite habitat restoration or enhancement should be discussed in detail. Because the Project site is surrounded by residential developments, offsite mitigation is recommended as onsite protections would likely be indirectly impacted in perpetuity. Due to the currently proposed configuration of the Project, onsite mitigation would not be biologically viable and therefore would not adequately mitigate the loss of biological functions and values. Offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed in the DEIR. The FBRR proposes offsite mitigation of 5.75 acres of occupied gnatcatcher DCSS be completed through offsite acquisition, in lieu fees, or purchase of credits from Buena Creek Conservation Bank or another approved mitigation bank. CDFW recommends the Project applicant contact the bank sponsor of the proposed bank to ensure availability of specific credit types as well as coordinate with Regional Bank Coordinators at CDFW and USFWS prior to signing purchase agreements. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement, financial assurance, and dedicated to a qualified entity for long-term management and monitoring. Under Government Code section 65967, the Lead Agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or non-profit organization to effectively manage and steward land, water, or natural resources on mitigation lands that it approves.

- 9) Long-term Management of Mitigation Lands. DEIR should include measures to protect the targeted habitat values from direct and indirect negative impacts in perpetuity. The objective should be to offset the Project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed include (but are not limited to) restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, domestic pet encroachment, and increased human intrusion. An appropriate non-wasting endowment should be set aside to provide for long-term management of mitigation lands.
- 10) Project Description and Alternatives. To enable CDFW to adequately review and comment on the Project from the standpoint of the protection of plants, fish, and wildlife, we recommend the following information be included in the DEIR:
  - a. A complete discussion of the purpose and need for, and description of, the Project, including all staging areas and access routes to the construction and staging areas; and,
  - b. A range of feasible alternatives to Project component location and design features to ensure that alternatives to the proposed Project are fully considered and evaluated. The alternatives should avoid or otherwise minimize direct and indirect impacts to sensitive biological resources and wildlife movement areas.

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## Environmental Data

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found online at Submitting Data to the CNDDDB (ca.gov).<sup>3</sup>

## Filing Fees

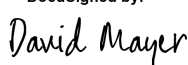
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by the Department. Payment of the fee is required for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

## Conclusions

CDFW appreciates the opportunity to comment on the NOP to assist the City of San Marcos in identifying and mitigating Project impacts on biological resources and ensuring Project consistency with the requirements of the draft City of San Marcos Subarea Plan and the subregional San Diego County MHCP.

Questions regarding this letter or further coordination should be directed to Paola Perez, Environmental Scientist, at [Paola.Perez@wildlife.ca.gov](mailto:Paola.Perez@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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David Mayer  
Environmental Program Manager  
South Coast Region

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<sup>3</sup> <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>

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## References

California Department of Fish and Wildlife. 2020. California Natural Diversity Database. Available from: <https://wildlife.ca.gov/Data/CNDDDB>.

California Department of Fish and Wildlife. 2020. Lake and Streambed Alteration Program. Available from: <https://wildlife.ca.gov/Conservation/LSA>.

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## California Department of Transportation

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11-SD-78

PM 13.27

Woodward 46 Specific Plan (SP22-0005)  
NOP/SCH# 2023080449

Mr. Norm Pedersen  
Associate Planner  
City of San Marcos  
1 Civic Center Drive  
San Marcos, CA 92069

Dear Mr. Pedersen:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Notice of Preparation (NOP) for the Woodward 46 Specific Plan (SP22-0005) located near State Route 78 (SR-78). The mission of Caltrans is to provide a safe and reliable transportation network that serves all people and respects the environment. The Local Development Review (LDR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities.

Safety is one of Caltrans' strategic goals. Caltrans strives to make the year 2050 the first year without a single death or serious injury on California's roads. We are striving for more equitable outcomes for the transportation network's diverse users. To achieve these ambitious goals, we will pursue meaningful collaboration with our partners. We encourage the implementation of new technologies, innovations, and best practices that will enhance the safety on the transportation network. These pursuits are both ambitious and urgent, and their accomplishment involves a focused departure from the status quo as we continue to institutionalize safety in all our work.

Caltrans is committed to prioritizing projects that are equitable and provide meaningful benefits to historically underserved communities, to ultimately improve transportation accessibility and quality of life for people in the communities we serve.

We look forward to working with the City of San Marcos in areas where the City and Caltrans have joint jurisdiction to improve the transportation network and connections

between various modes of travel, with the goal of improving the experience of those who use the transportation system.

Caltrans has the following comments:

### **Traffic Impact Study**

- A Vehicle Miles of Travel (VMT) based Traffic Impact Study (TIS) should be provided for this project. Please use the Governor's Office of Planning and Research Guidance to identify VMT related impacts.<sup>1</sup>
- The TIS may also need to identify the proposed project's near-term and long-term safety or operational issues, on or adjacent any existing or proposed State facilities.

### **Complete Streets and Mobility Network**

Caltrans views all transportation improvements as opportunities to improve safety, access, and mobility for all travelers in California and recognizes bicycle, pedestrian, and transit modes as integral elements of the transportation network. Caltrans supports improved transit accommodation through the provision of Park and Ride facilities, improved bicycle and pedestrian access and safety improvements, signal prioritization for transit, bus on shoulders, ramp improvements, or other enhancements that promotes a complete and integrated transportation network. Early coordination with Caltrans, in locations that may affect both Caltrans and the City of San Marcos, is encouraged.

To reduce greenhouse gas emissions and achieve California's Climate Change target, Caltrans is implementing Complete Streets and Climate Change policies into State Highway Operations and Protection Program (SHOPP) projects to meet multi-modal mobility needs. Caltrans looks forward to working with the City to evaluate potential Complete Streets projects.

Bicycle, pedestrian, and public transit access during construction is important. Mitigation to maintain bicycle, pedestrian, and public transit access during construction is in accordance with Caltrans' goals and policies.

### **Land Use and Smart Growth**

Caltrans recognizes there is a strong link between transportation and land use. Development can have a significant impact on traffic and congestion on State transportation facilities. In particular, the pattern of land use can affect both local vehicle miles traveled and the number of trips. Caltrans supports collaboration with

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<sup>1</sup> California Governor's Office of Planning and Research (OPR) 2018. "Technical Advisory on Evaluating Transportation Impacts in CEQA." [https://opr.ca.gov/docs/20190122-743\\_Technical\\_Advisory.pdf](https://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf)

"Provide a safe and reliable transportation network that serves all people and respects the environment"

local agencies to work towards a safe, functional, interconnected, multi-modal transportation network integrated through applicable “smart growth” type land use planning and policies.

The City should continue to coordinate with Caltrans to implement necessary improvements at intersections and interchanges where the agencies have joint jurisdiction.

### **Environmental**

Caltrans welcomes the opportunity to be a Responsible Agency under the California Environmental Quality Act (CEQA), as we have some discretionary authority of a portion of the project that is in Caltrans' Right-of-Way (R/W) through the form of an encroachment permit process. We look forward to the coordination of our efforts to ensure that Caltrans can adopt the alternative and/or mitigation measure for our R/W. We would appreciate meeting with you to discuss the elements of the Environmental Document that Caltrans will use for our subsequent environmental compliance.

An encroachment permit will be required for any work within the Caltrans' R/W prior to construction. As part of the encroachment permit process, the applicant must provide approved final environmental documents for this project, corresponding technical studies, and necessary regulatory and resource agency permits. Specifically, CEQA determination or exemption. The supporting documents must address all environmental impacts within the Caltrans' R/W and address any impacts from avoidance and/or mitigation measures.

We recommend that this project specifically identifies and assesses potential impacts caused by the project or impacts from mitigation efforts that occur within Caltrans' R/W that includes impacts to the natural environment, infrastructure including but not limited to highways, roadways, structures, intelligent transportation systems elements, on-ramps and off-ramps, and appurtenant features including but not limited to fencing, lighting, signage, drainage, guardrail, slopes and landscaping. Caltrans is interested in any additional mitigation measures identified for the project's draft Environmental Document.

### **Broadband**

Caltrans recognizes that teleworking and remote learning lessen the impacts of traffic on our roadways and surrounding communities. This reduces the amount of VMT and decreases the amount of greenhouse gas (GHG) emissions and other pollutants. The availability of affordable and reliable, high-speed broadband is a key component in supporting travel demand management and reaching the state's transportation and climate action goals.

**Right-of-Way**

- Per Business and Profession Code 8771, perpetuation of survey monuments by a licensed land surveyor is required, if they are being destroyed by any construction.
- Any work performed within Caltrans' R/W will require discretionary review and approval by Caltrans and an encroachment permit will be required for any work within the Caltrans' R/W prior to construction.

Additional information regarding encroachment permits may be obtained by contacting the Caltrans Permits Office at (619) 688-6158 or emailing [D11.Permits@dot.ca.gov](mailto:D11.Permits@dot.ca.gov) or by visiting the website at <https://dot.ca.gov/programs/traffic-operations/ep>. Early coordination with Caltrans is strongly advised for all encroachment permits.

If you have any questions or concerns, please contact Shannon Aston, LDR Coordinator, at (619) 992-0628 or by e-mail sent to [shannon.aston@dot.ca.gov](mailto:shannon.aston@dot.ca.gov).

Sincerely,

*Maurice A. Eaton*

MAURICE EATON  
Branch Chief  
Local Development Review



## NATIVE AMERICAN HERITAGE COMMISSION

August 21, 2023

Norm Pedersen  
City of San Marcos  
1 Civic Center Drive  
San Marcos, CA 92069

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[NAHC.ca.gov](http://NAHC.ca.gov)

**Re: 2023080449, Woodward 46 Specific Plan (SP22-0005) Project, San Diego County**

Dear Mr. Pedersen:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, § 15064.5 (b) (CEQA Guidelines § 15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines § 15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

**Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.**

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

**1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:**

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

- a. A brief description of the project.
- b. The lead agency contact information.
- c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
- d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

**2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).

- a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

**3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).

**4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.
- d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

**5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

**6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:

- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
- b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).

8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).

9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).

10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:

- a. Avoidance and preservation of the resources in place, including, but not limited to:
  - i. Planning and construction to avoid the resources and protect the cultural and natural context.
  - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
  - i. Protecting the cultural character and integrity of the resource.
  - ii. Protecting the traditional use of the resource.
  - iii. Protecting the confidentiality of the resource.
- c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- d. Protecting the resource. (Pub. Resource Code §21084.3 (b)).
- e. Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
- f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).

11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
- b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
- c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf)

## SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf).

Some of SB 18's provisions include:

1. Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation.
3. Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. Conclusion of SB 18 Tribal Consultation: Consultation should be concluded at the point in which:
  - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

### NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([https://ohp.parks.ca.gov/?page\\_id=30331](https://ohp.parks.ca.gov/?page_id=30331)) for an archaeological records search. The records search will determine:
  - a. If part or all of the APE has been previously surveyed for cultural resources.
  - b. If any known cultural resources have already been recorded on or adjacent to the APE.
  - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
  - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
  - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:

- a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
- b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.

- a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, § 15064.5(f) (CEQA Guidelines § 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
- b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
- c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code § 7050.5, Public Resources Code § 5097.98, and Cal. Code Regs., tit. 14, § 15064.5, subdivisions (d) and (e) (CEQA Guidelines § 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address: [Pricilla.Torres-Fuentes@nahc.ca.gov](mailto:Pricilla.Torres-Fuentes@nahc.ca.gov).

Sincerely,

*Pricilla Torres-Fuentes*

Pricilla Torres-Fuentes  
Cultural Resources Analyst

cc: State Clearinghouse



# San Diego County Archaeological Society, Inc.

Environmental Review Committee

30 August 2023

To: Mr. Norm Pedersen, Associate Planner  
Planning Division  
City of San Marcos  
1 Civic Center Drive  
San Marcos, California 92069

Subject: Notice of Preparation of a Draft Environmental Impact Report  
Woodward 46 Specific Plan


Dear Mr. Pedersen:

Thank you for the Notice of Preparation for the subject project, which was received by this Society last week.

We are pleased to note the inclusion of cultural resources in the list of subject areas to be addressed in the DEIR and look forward to reviewing it during the upcoming public comment period. To that end, please include us in notification of the public review of the DEIR and ensure availability of a copy of the cultural resources technical report(s) that has been edited for public distribution.

SDCAS appreciates being included in the environmental review process for this project.

Sincerely,

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

cc: SDCAS President  
File

Jamie and Pablo Aquino  
340 Mission Terrace Ave  
San Marcos, CA 92069

August 26, 2023

Norm Pedersen, Associate Planner  
City of San Marcos PLanning Division  
1 Civic Center Dr  
San Marcos, CA 92069

RE: Cornerstone Communities Project on the east side of Woodward Street  
(Parcel #: 220-210-49-00)

Mr. Pedersen:

I am writing this letter to relay my personal feelings about the project near my residence. Note that my husband and I moved to San Marcos 6 years ago. We used to live in a new housing development in Los Angeles. We were lucky and blessed homeowners, we were also aware that we were living in a very crowded city mere blocks from a freeway without a place to walk for exercise. We moved to San Diego for a job opportunity and welcomed the change in scenery. After renting in Normal Heights and Escondido for several months and looking at countless areas to move to, we decided to buy in San Marcos. Here is what drew us to the city:

- Lush green hills and vast skyline
- Plentiful parks and hiking trails
- Diversity in restaurants and grocery stores
- Good people
- Clean and safe spaces for families

In the last 6 years, the city has changed. Constant construction is the norm. A drive that once took 10 mins now takes 25 minutes. Oftentimes you have to wait several light changes to get onto the freeway. People are constantly speeding past schools and colliding with not just other vehicles but also pedestrians.. We live in a beautiful city and my summer has been marred by trucks moving in and out of narrow lanes, seeing water wasted by builders and general noise pollution.

If the City wants to continue building new homes, the city should strongly consider:

- updating roadways and transportation routes
- changing the timing of stoplights and
- reassessing current freeway on and off-ramps
- Providing low-income housing and senior housing
- Considering having their own police department

Please cease allowing builders to build more homes without creating the proper infrastructure.

The City needs to be able to appropriately handle the influx of people..

Thank you,

A handwritten signature in blue ink, appearing to read 'Ja Aquino', with a stylized flourish at the end.

Jamie Aquino

jaquino11@outlook.com