

# APPLICANT'S ALTERNATIVE PLANNING COMMISSION HEARING REPORT

## PROJECT DETAILS

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Project: Cottonwood Sand Mine Project

Case/File No: Major Use Permit PDS2018-MUP-18-023, Reclamation Plan PDS2018-RP-001

## APPLICANT'S OVERVIEW

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The purpose of this Applicant's Alternative Planning Commission Hearing Report (**Applicant's Report**) is to provide the Planning Commission with the information necessary to approve the proposed Major Use Permit (**MUP**) (**PDS2018-MUP-18-023**) and Reclamation Plan (**PDS2018-RP-001**) for the Cottonwood Sand Mine Project (**Project**). As noted in the County Staff's Planning Commission Hearing Report (**County Staff Report**), this Applicant's Report provides "separate materials supporting that the required [Project] findings can be made."<sup>1</sup> Also as noted in the County Staff Report, "[t]he Planning Commission may approve the Major Use Permit and the Reclamation Plan based on the Applicant's materials."<sup>2</sup>

The County Staff Report recommends that the Planning Commission deny the MUP and deny the Reclamation Plan. The sole ground upon which the County Staff Report recommends denial is staff's statement that two out of the six required MUP findings cannot be made.<sup>3</sup> However, as addressed herein, there is ample evidence in the record upon which to base these two MUP findings. Staff's review of these two MUP findings does not reference evidence in the record supporting its determination, and overlooks the supporting evidence.

Because the County Staff Report recommends denial, the County Staff Report does not present conditions of approval, a Mitigation Monitoring and Reporting Program, or Environmental Findings of Fact to the Planning Commission for approval. However, the conditions of approval contained herein have been drafted in part and reviewed in full by County staff. The Mitigation Monitoring and Reporting Program, as well as the Cottonwood Sand Mine Project Final Environmental Impact Report (**Final EIR**) upon

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<sup>1</sup> County Staff Report, p. 2.

<sup>2</sup> County Staff Report, p. 2.

<sup>3</sup> County Staff Report, p. 2.

which the Environmental Findings of Fact have been based, were similarly prepared under the supervision and review of staff.

Finally, this Applicant's Report includes a commitment to offer to the County approximately 148 acres of the Project site's private property as restored, improved, and permanently protected open space—a condition not required by the Project's Final EIR, the County Code, or any other statutory or regulatory scheme. This presents the County with a rare and valuable opportunity to expand the County's parkland network at no cost to County taxpayers. The property, once it is fully reclaimed and revegetated under the Project's Resource Management Plan, will consist of high-quality riparian, wetland, and upland habitats that support regional biodiversity and enhance ecological connectivity.

### **APPLICANT'S REQUESTED ACTIONS**

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The Applicant requests for the Planning Commission to, upon the substantial evidence within the entirety of the record before the County, make the required findings and take the following actions:

1. Find and determine that the Cottonwood Sand Mine Project complies with the California Environmental Quality Act (Pub. Resources Code, § 21000 *et seq.*) (**CEQA**) and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 *et seq.*), the County of San Diego Resource Protection Ordinance and the County of San Diego Watershed Protection, Stormwater Management, and Discharge Control Ordinance;
2. Certify the Cottonwood Sand Mine Project Final EIR and adopt the CEQA Findings of Fact presented in **Attachment C** of the Applicant's Alternative Planning Commission Report, including the Statement of Overriding Considerations incorporated therein;
3. Adopt the Mitigation Monitoring and Reporting Program presented in **Attachment D** of the Applicant's Alternative Planning Commission Report;
4. Grant MUP PDS2018-MUP-18-023 and Reclamation Plan PDS2018-RP-001, make the findings, and impose the requirements and conditions as set forth in the Form of Decision presented in **Attachment B** of the Applicant's Alternative Planning Commission Report.

## **APPLICANT'S DEVELOPMENT PROPOSAL**

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The County Staff Report provides an overview of the Applicant's Development Proposal; however, several components of the Project warrant additional explanation.

### **The Need for Local Source of Aggregate and PCC-grade Sand**

The Project proposes to provide reliable, high-quality construction aggregate product in the amount of 570,000 tons per year. Aggregate material extracted from the site would consist primarily of washed sand suitable for Portland cement concrete (PCC).

The extraction of PCC-grade sand is a declared public necessity in San Diego County. As codified in County Code, section 87.701, the County Board of Supervisors has formally recognized that mineral extraction “is essential to the continued economic well-being of the County of San Diego.” This policy is reinforced by the County’s General Plan Update EIR, which identifies construction aggregates (particularly sand, gravel, and crushed rock) as the most economically important mineral resources in the region.<sup>4</sup> These materials are foundational to the construction of roads, homes, schools, hospitals, and other critical infrastructure that support San Diego County’s population.

PCC-grade sand, in particular, is both scarce and indispensable. Due to strict specifications set by agencies such as Caltrans and the U.S. Army Corps of Engineers, only certain high-quality sand deposits are suitable for use in PCC.<sup>5</sup> The County’s General Plan EIR confirms that PCC-grade sand is the scarcest and most valuable form of aggregate in the County, and that environmental and regulatory constraints have made it increasingly difficult to permit new extraction sites, due in significant part to the fact that these materials are located in in-stream and floodplain areas.<sup>6</sup>

The mineral resources available for extraction within the County have dwindled, even though continued development, including housing development, within the County requires more resources. As depicted in **Attachment A**, Figures Depicting Loss of Local Aggregate Resources, while there were 25 active sand mine sites in San Diego County in 1980, that number reduced to 8 active sand mines in 1995, and reduced to two active sand mines by 2015. In 2025, there is now only one active sand mine within the County.<sup>7</sup> As a result, locally permitted construction aggregate supply has not kept up with demand, which has increased over that same 45-year horizon.<sup>8</sup> As a result, San Diego County has the

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<sup>4</sup> County of San Diego, General Plan Update EIR, pp. 2.10-1, -2.

<sup>5</sup> County of San Diego, General Plan Update EIR, p. 2.10-4.

<sup>6</sup> County of San Diego, General Plan Update EIR, p. 2.10-4.

<sup>7</sup> Attachment A, Figures Depicting Loss of Local Aggregate Resources, pp. 1-4.

<sup>8</sup> Attachment A, Figures Depicting Loss of Local Aggregate Resources, p. 5.

highest aggregate prices in California, driven in part by a shortage of local supply and the need to import sand from distant sources, including Mexico.<sup>9</sup>

This reliance on imported aggregate is not sustainable. Transporting sand over long distances increases construction costs, especially for housing and infrastructure projects that are already strained by high prices. It also contributes significantly to regional greenhouse gas emissions at a time when both the County and the state are working to reduce emissions and meet climate goals. Importing sand, especially over an international border exposes the County to supply chain disruptions, including those resulting from tariffs. Continuing to rely on distant imports works directly against regional affordability and environmental targets.

The Cottonwood Sand Mine Project offers a rare opportunity to secure a long-term, local source of PCC-grade sand that can meet approximately 25% of the County’s annual demand. By doing so, it will stabilize prices, reduce environmental impacts from transportation, and ensure that the County can continue to meet its infrastructure and housing needs in a cost-effective and environmentally responsible manner.

The California Geological Survey has classified the Project site as “Mineral Resource Zone 2” (**MRZ-2**).<sup>10</sup> This classification identifies areas where significant and valuable mineral deposits are known to exist or are highly likely to be present. MRZ-2 is the highest designation in the state’s Mineral Land Classification system under the Surface Mining and Reclamation Act (**SMARA**) of 1975. It signals to local agencies that these areas are important for long-term mineral supply. By identifying and protecting MRZ-2 areas, California aims to ensure a sustainable supply of these critical resources. SMARA requires local agencies, such as San Diego County, to consider these zones and the valuable mineral resources within them in their land use planning processes. Local agencies must recognize and evaluate the importance of MRZ-2 areas when making zoning and development decisions. Specifically, state law requires that local agencies develop and adopt mineral resource management policies to be included within its general plan that emphasize the conservation and development of the identified mineral deposits.<sup>11</sup>

This Project site was designated MRZ-2 because aggregate resource evaluation reports indicate that aggregate resources at this site meet engineering specifications for PCC-grade aggregate.

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<sup>9</sup> Attachment A, Figures Depicting Loss of Local Aggregate Resources, p. 6; County of San Diego, General Plan Update EIR, pp. 2.10-3, -5.

<sup>10</sup> Final EIR, p. 3.2-2, -3.

<sup>11</sup> Cal. Geological Survey, Update of Mineral Land Classification: Portland Cement Concrete-Grade Aggregate in the Western San Diego County Production-Consumption Region, California, 2017.

**The Project Significantly Improves and Preserves In Perpetuity the Project Site's Biological Value**

The Project is designed not only to meet regional construction needs, but also to deliver substantial long-term environmental benefits through habitat restoration and enhancement. Upon completion of mining and implementation of the Resource Management Plan, the Project will transform a degraded, intensively managed golf course into a biologically rich and ecologically functional open space corridor. This transformation will result in a net environmental benefit by restoring native habitats, improving hydrological function, and enhancing regional wildlife connectivity.

At the heart of the Project's environmental benefit is the restoration of the Sweetwater River floodplain. The Project will remove artificial constraints created by the golf course, return the river channel to a more natural topography, and re-establish a more natural floodplain with native riparian and wetland vegetation. Approximately 107 acres of wetland- and riparian-associated habitat will be created, with an additional seven acres rehabilitated and 11 acres of coastal sage scrub restored. These restored habitats will support a diverse array of native species, including special-status birds, reptiles, amphibians, and bats. The restored river corridor will also improve water flow, reduce flood risk, and enhance the ecological integrity of the Sweetwater River system.

The Project's phased approach to reclamation (addressed in detail, below), ensures that habitat restoration occurs *continuously* throughout the life of the mine. As each subphase of mining is completed, that subphase area will be backfilled, graded, and revegetated using native plant palettes tailored to riparian, upland, and erosion control needs. Revegetation will be monitored for at least five years to ensure successful establishment, with performance standards for species richness, vegetative cover, and density. Ultimately, approximately 148 acres of the site will be placed under a permanent biological open space easement. As discussed in further detail, below, the Applicant will commit to offering this significantly improved and permanently protected private property to the County for a purchase price of \$0 and for incorporation into the County's open space system. This will not only preserve the restored habitat in perpetuity but also provide critical linkages between existing conserved lands, including the San Diego National Wildlife Refuge, thereby enhancing regional habitat connectivity and wildlife movement.

The Applicant has engaged the San Diego Habitat Conservancy as its long-term resource manager for the reclaimed areas. The Applicant is also currently seeking an additional nonprofit partner with specialization in water quality, monitoring, and Clean Water Act compliance, to further support its long-term management of the restored property.

### **The Project's Unique Phasing Plan**

The Cottonwood Sand Mine Project is not proposing a traditional mine, wherein the entire site is mined and disrupted for the entire life of the extraction permit, and a community is required to wait until the end of the extraction phase to see any community benefit. Instead, and for the express purpose of reducing the level of disruption experienced in the immediate vicinity, the Project proposes an **incremental** extraction scheme, with disruption limited to single phases, and within the phases, smaller subphases, at a time. This proposed phasing adds significant expense and complexity to the Project.

Specifically, over a 10-year period, PCC-grade sand extraction would occur incrementally over approximately 214 acres of the Project site in three major phases. Each phase is further divided into multiple subphases. ***Each mining subphase contains no more than 30 acres each. Excavation in each subphase is expected to take only approximately one year.*** Reclamation of each subphase would begin upon the completion of mining in the subphase. This allows the Project site to not only be incrementally mined, but also incrementally revegetated and reclaimed. This unique approach limits mining impacts in any individual area to a short duration, with restoration of the site (to a natural habitat with significantly greater biological value than the current golf course development) occurring continuously as operations move across the site. Additional details for each phase are provided below.

- **Phase 1** includes approximately 79 acres of the closed 18-hole Lakes golf course at the western portion of the Project. Phase 1 would include three subphases: 1A (22.10 acres), 1B (26.46 acres), and 1C (30.42 acres). Upon completion of mining activities in Phase 1, materials and equipment would be moved from the Phase 1 area via the access point at Muirfield Drive, trucked to the access point at Ivanhoe Ranch Road (existing maintenance entrance for golf course), and mobilized to the Phase 2, subphase 2A area.
- **Phase 2** would occur within approximately 48 acres in the center of the site, east of Steele Canyon Road, on the currently operating Ivanhoe golf course. Extraction would occur in a west-to-east direction within three subphases: 2A (15.26 acres), 2B (19.08 acres), and 2C (13.74 acres). The existing golf clubhouse would be demolished near the end of Phase 2 mining. Upon conclusion of Phase 2, the conveyor line would be relocated to run from the processing plant to the eastern end of the Project site in preparation for Phase 3.
- **Phase 3** mining operations would encompass the remaining approximately 79 acres located to the east of Phase 2. Phase 3 would occur four subphases: 3A (29.42 acres), 3B (16.15 acres), 3C (14.13 acres), and 3D (18.87 acres). Subphase 3A

would be located at the northeast edge of the property and excavation of each subphase would proceed westward until all four subphases are complete.

- **Phase 4** would consist of removal of the processing plant, grading to final contours, final reclamation and revegetation efforts, cleanup, and equipment removal on 8.65 acres. The final landform is proposed to be a relatively flat plain that gently slopes downward from east to west, with a widened river channel bisecting the length of the site. Revegetation monitoring will continue after this final phase for five years or until revegetation standards are met after this final phase.

### **The Processing Plant Location Minimizes Disruption and Impacts**

While mining is able to progress across the site incrementally in subphases no greater than 30 acres, the Project's processing plant will remain in place throughout the duration of the mining period. However, to reduce disruption to the extent feasible, the processing plant is proposed in the middle of the site, where there are no adjacent existing homes. View of the plant would be screened by existing and proposed fencing with green screening mesh, existing vegetation, and additional screening vegetation (to be installed prior to the commencement of mining). Notably, no crushing of rock is necessary to process the materials extracted from the site. Instead the processing plant's purpose will be to screen and wash sand and gravel materials.

### **Commitment to Offer County Parks the Improved and Protected Open Space Created by this Project**

The Project site is private property. In 2023, the County of San Diego Department of Parks and Recreation contacted the Applicant stating its interest in performing an appraisal of the Project site and noting that, subject to the County's funding availability, it may be interested in offering to purchase the site. The Applicant is also aware that members of the public have expressed interest in having the Project site purchased by a public agency or nonprofit for open space use. However, no specific or economically feasible offer to purchase the Property has been made to the Applicant by any entity.

Nonetheless, should the Project be approved, the Applicant will commit, through an enforceable condition of approval, to offer a significant portion of the Project site to the County for use as County open space. Specifically, upon approval, the Applicant will commit to offering at least 148 acres of the Project site to the County for a purchase price of \$0, and the County may choose to accept or reject the offer when it is made. The terms of this offer are detailed in the Project's conditions of approval, specifically MUP

Condition of Approval GEN#4-LAND DEDICATION OFFER and MUP Condition of Approval GEN#7-COUNTY RIGHT OF FIRST OFFER.<sup>12</sup>

The Applicant's commitment to donate nearly 150 acres of restored open space to the County presents a rare and valuable opportunity to expand the County's open space network at no cost to County taxpayers. The property, once it is fully reclaimed and revegetated under the Project's Resource Management Plan, will consist of high-quality riparian, wetland, and upland habitats that support regional biodiversity and enhance ecological connectivity. Strategically located along the Sweetwater River corridor, the site will serve as a critical linkage between existing open space areas, including the San Diego National Wildlife Refuge, and will facilitate wildlife movement and trail connectivity consistent with the County Trails Master Plan. The perpetual biological open space easement will ensure long-term conservation of these restored habitats, while the land's integration into the County park system will provide new recreational opportunities for the public, including multi-use trails and nature viewing areas. This donation represents a lasting environmental legacy and a significant public benefit aligned with the County's conservation and recreation goals. As noted above, the Applicant has engaged the San Diego Habitat Conservancy as its long-term resource manager for the reclaimed areas. The Applicant is also currently seeking an additional nonprofit partner with specialization in water quality, monitoring, and Clean Water Act compliance, to further support its long-term management of the restored property.

#### **Willow Glen Drive, Muirfield Drive, and Steele Canyon Road Improvements**

The Project proposes several improvements along Willow Glen Drive, including restriping Willow Glen Drive between Steele Canyon Road and the Project ingress driveway to provide Class II buffered bike lanes on both sides of the roadway. In addition, the Project proposes to provide an Irrevocable Offer of Dedication along the project frontage as needed to accommodate the ultimate roadway classification of Willow Glen Drive.

To clarify, decorative lodgepole fencing is *proposed* (not existing, as stated in the County Staff Report) along Willow Glen Drive to delineate the pathway and landscaping proposed in the Project's Conceptual Landscape Screening and Entrances Plan that was included in the EIR.

#### **Design Exception Request – Willow Glen Drive Half-Width**

The Project seeks two Design Exception Requests. The first relates to half-width improvements along Willow Glen Drive. The Public Road Standards require a half-width minimum improvement of 39 feet. The Department of Public Works approved this Design

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<sup>12</sup> See Attachment B, Form of Decision, for all MUP and Reclamation Plan Conditions of Approval.



Exception Request to allow a reduction in half-width improvements to vary from 21 to 35 feet along the project frontage, east of Steel Canyon Road.

### **Design Exception Request - Undergrounding**

The second Design Exception Request relates to Board Policy I-92 and the undergrounding of utilities. Since the inception of the Project, the Project has included the removal of five AT&T utility poles located near the Project's entrance. The removal of these poles is necessary to accommodate the Project's improvements to the entrance. The Applicant requested a Design Exception Request waiving the requirement to underground the AT&T lines utilizing these five poles. AT&T has a longstanding agreement allowing it to use SDG&E's poles on the opposite (north) side of Willow Glen Drive. AT&T has specifically requested that its lines be moved to those poles instead of being placed underground. This solution fits AT&T's operational needs, avoids the cost and complexity of undergrounding, avoids unnecessary removal of existing vegetation, and accommodates the Project's removal of five poles.

Early in the Project's administrative review process, County staff reviewed this waiver request and supported it. Since 2022, the Project's plans have shown only five poles removed to accommodate the entranceway improvements. These plans also showed that 27 other utility poles along Willow Glen Drive would remain in place, untouched by the Project.

In October 2024, County staff requested that this Design Exception Request be submitted in writing, which the Applicant provided. In February 2025, County staff confirmed, again, that the Department of Public Works had no objection to the waiver request. At no time during this process did County staff suggest that more than five utility poles must be removed, or that more utility lines were subject to undergrounding than the lines associated with the five poles to be removed.

In May 2025, for the first time in the Project's review process, County staff indicated that staff was now requiring the removal of *all* utility poles and the undergrounding of *all* utility lines along Willow Glen Drive. Specifically, County staff is requesting that a total of 32 poles be removed and all associated utility lines be undergrounded. This request comes despite the fact that, aside from the five utility poles previously described, the Project does not disturb the additional 27 poles County staff requested, last month, be removed. County staff's request is impractical and has no direct connection to the improvements proposed by the Project.

County staff's May 2025 request came after all Project design had been completed, coordination with AT&T had already occurred, and public review of the Project had closed.

County staff had been aware of the Project’s proposal to remove only five poles for several years, as this is what had been shown on all Project plans.

For these reasons, the second Design Exception Request sought by the Applicant is to waive the requirement to underground the lines associated with the removal of five AT&T poles located at the entrance to the Project site. The Applicant does not seek to remove any other poles, does not seek to move any other utility lines, and objects to the imposition of any condition requiring that all 32 poles be removed. Expanding the undergrounding scope to include poles that the Project does not affect is not justified and would create unnecessary costs, delays and coordination issues. There is also no assurance that AT&T or SDG&E would approve such a change given it does not match their stated preferences or existing agreements.

On March 18, 2025, the Valle de Oro Community Planning Group voted to deny this Design Exception Request on the following grounds: lack of cost analysis or viable alternatives, failure to align with the Community Plan, and visual resource and public safety concerns. Unfortunately, the Community Planning Group canceled its scheduled meeting with the Applicant to address its concerns over the waiver. The Applicant objects to the reasoning provided by the Community Planning Group in its denial. Specifically, a cost analysis and alternatives analysis were provided with the waiver request. Specifically, a cost estimate was submitted for undergrounding the five affected poles and a fully viable alternative, relocating AT&T’s lines to existing SDG&E poles on the opposite side of Willow Glen Drive was proposed. This alternative is AT&T’s preferred approach.

Further, there is no evidence that transferring the lines to *existing* SDG&E poles across the street would result in any visual or public safety impact—the poles already exist and will remain in place. In reality, visual conditions along Willow Glen Drive would be slightly improved by the removal of the five poles near the Project entrance and the relocation of AT&T lines to existing distribution poles.

## **APPLICANT’S ANALYSIS AND DISCUSSION**

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The County Staff Report notes that “[t]he Project has been reviewed for conformance with all relevant ordinances and guidelines, including the San Diego County General Plan, the Valle de Oro Community Plan, Rancho San Diego Specific Plan, the County Zoning Ordinance, and CEQA Guidelines.”<sup>13</sup> The County Staff Report identifies only one asserted inconsistency or point of nonconformance with these ordinances, guidelines and plans—

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<sup>13</sup> County Staff Report, p. 14.

an inconsistency with County Zoning Ordinance, subsections 7358(a)(3) and (a)(5), relating to the findings required for issuance of the MUP.<sup>14</sup>

The County Staff Report states, “[s]taff has concluded that Finding 3 [§7358(a)(3)], regarding harmful effect on neighborhood character, and Finding 5 [§7358(a)(5)], regarding suitability of the site for this type of development, cannot be made.”<sup>15</sup> However, as addressed below, there is ample evidence in the record upon which to base these two MUP findings. Staff’s review of these two MUP findings does not reference evidence in the record supporting its determination, and overlooks the supporting evidence.

Also addressed below are clarifications relating to the Project’s significant and unavoidable aesthetics impacts, the Project’s less than significant impacts on cultural and tribal cultural resources, the Project’s consistency with the County Resource Protection Ordinance (RPO), and the Project’s consistency with the County Watershed Protection, Stormwater Management and Discharge Control Ordinance (WPO).

### **MUP Findings**

Pursuant to County of San Diego Zoning Ordinance, section 7358, several findings must be made in support of issuance of a Major Use Permit. The County Staff Report states that that two of these findings—Finding 3 (7358(a)(3)), regarding harmful effect on neighborhood character, and Finding 5 (7358(a)(5)), regarding the suitability of the site for this type of development, could not be made. The conclusions of the County Staff Report, however, are inconsistent with the evidence in the record. Public agency findings must be made based upon substantial evidence in the record.<sup>16</sup>

As a threshold matter, County staff has taken the position that information included in the Final EIR is not relevant to the question of whether the appropriate MUP findings can be made. This is not so. The Final EIR, just as all other records and documents before the County, is an appropriate source of evidence and information relevant to the MUP findings. In fact, where the issues under discussion involve technical questions such as the level of noise generated by the Project, or the adequacy of the Project’s design, mitigation measures and conditions of approval in addressing dust generation, the Final EIR provides the most relevant evidence in the record. That the MUP findings requirement is based in the County Zoning Ordinance, and not in CEQA’s statutes or regulations, is immaterial to the question

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<sup>14</sup> County Staff Report, pp. 14-23.

<sup>15</sup> County Staff Report, p. 15.

<sup>16</sup> See *Hilltop Group, Inc. v. County of San Diego* (2024) 99 Cal.App.5th 890, wherein the San Diego County Board of Supervisors failed to consider the evidence in the record indicating no significant impacts would occur, and instead, concluded that impacts would occur without any evidentiary support. The Court concluded these unsupported agency findings were arbitrary, capricious and constituted a prejudicial abuse of discretion.

of whether substantial evidence in the record, including within the Final EIR, supports the MUP findings.

### Finding 3

Section 7358(a)(3) requires that the County consider the Project's potential to result in a harmful effect upon desirable neighborhood character. A full analysis of the Project's consistency with this finding is provided in the MUP Findings included in **Attachment B**, Form of Decision. In sum, ample data and evidence relevant to this Finding can be found in the Final EIR. For example, the Final EIR's analysis determined that the only potential impact to community character was a non-permanent visual impact. However, visual impacts are only one component of "desirable neighborhood character." Notably, impacts associated with traffic (including truck traffic), air quality (including dust generation), and noise (including from both mining activities directly and truck traffic) were all found to be less than significant in the Final EIR. The definition of "significant" applied in the EIR conforms to the County's ordinances and guidelines, and industry standards.

The Final EIR analyzed the Project's effect on visual character of the surrounding community systematically, based on an analysis of multiple key views that "would clearly display the visual effects of the Project and represent the primary viewer groups potentially affected by the Project."<sup>17</sup> The Final EIR noted that "[t]he visual character and quality of the existing landscape [on the Project Site] would change substantially during the mining and reclamation phases of the Project."<sup>18</sup> However, this visual disturbance would not occur for the entirety of the mining period.<sup>19</sup> This is because, once mining in an individual subphase is completed, that subphase area will be reclaimed. Thus, while the Final EIR identified a significant impact on aesthetics, this impact would not be for the duration of mining activities for the vast majority of viewers. Further, at the close of the Project the aesthetics of the site would be improved over existing conditions, as the site would be restored to a biologically superior condition.

Aesthetics is only one component of community character. The Final EIR also analyzed the Project's potential to affect community character as it relates to traffic, noise, and air quality. The Final EIR determined that impacts associated with traffic, noise, and air quality would each be less than significant. There is no evidence in the administrative record that traffic, noise, and air quality impacts would harm the community, or community character specifically, given there is no evidence that these impacts would

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<sup>17</sup> Final EIR, pp. 2.1-16 through -20.

<sup>18</sup> Final EIR, p. 2.1-26.

<sup>19</sup> Final EIR, pp. 2.1-28, -29.

exceed any published, adopted, commonly applied, or industry standard threshold of significance.

Given the above, the location, size, design, and operating characteristics of the Project will be compatible with adjacent uses, residents, buildings and structures in relation to neighborhood character. While visual character will be impacted, it will be so for only a limited period of time (two years or less) for most viewers. Impacts associated with noise, dust, and truck traffic were all analyzed in detail in the EIR, which determined that these impacts would be less than significant.

Contrary to the above and the MUP Findings included in **Attachment B**, Form of Decision, the County Staff Report's assertion that the Project will have a harmful effect on desirable neighborhood character is not supported by evidence in the record and fails to account for the Project's design and phasing, the Final EIR's comprehensive environmental analysis, or any of the enforceable mitigation measures and conditions of approval imposed upon the Project. The Final EIR thoroughly evaluated potential impacts relating to aesthetics, noise, air quality (including dust), and traffic (including truck trips)—each of which are components of community character. The Final EIR's conclusions were based on technical studies, modeling, and regulatory thresholds *adopted by the County* and other relevant agencies. Instead of considering the evidence in the record—evidence that County staff itself reviewed and supervised the preparation of—the County Staff Report relies on vague and generalized concerns.

For example, staff's analysis claims that the Project will “create a nuisance from dust.”<sup>20</sup> But the analysis does not cite to any evidence indicating this is so. The Final EIR analyzed the potential for dust impacts and determined that impacts would be less than significant. The Final EIR detailed what measures and design features would be imposed on the Project to reduce dust exposure. The Final EIR confirmed that, through these measures, dust generated by the project would fall below the level considered disruptive by the San Diego Air Pollution Control District. The Final EIR detailed the components of the Project's Fugitive Dust Control Plan and its suite of best management practices specifically designed to prevent visible dust emissions and minimize offsite migration of dust particulates. These measures include, but are not limited to, regular watering of unpaved roads and disturbed areas, use of wheel washers and rumble grates at site exits, speed limits for on-site vehicles, sweeping of paved surfaces, and prompt stabilization of inactive areas. These practices are industry-standard, enforceable, and proven effective. The County Staff Report does not refer to these measures or explain why, despite their imposition, dust will “create a nuisance.” The County Staff Report does not explain what level of dust the County considers to generate “a nuisance,” why that level of dust is different from the level of dust

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<sup>20</sup> County Staff Report, p. 15.

deemed acceptable by the air district, and how the County knows whether this Project will exceed such a level and at what locations. The County does not explain why the Final EIR and its technical studies, which were prepared under the supervision of, and reviewed by, County staff and its technical experts, concluded otherwise.<sup>21</sup> As noted above, public agencies must base their findings on evidence in the record.

The County Staff Report's analysis also states that "[t]he existing noise on the site consists of noise associated with a golf course. Although the Project was found to be less than significant with respect to noise per the CEQA thresholds by implementing noise attenuation measures, the types of sound coming from the Project will be different from the current sounds in the neighborhood."<sup>22</sup> While the noise analysis in the Final EIR applied the County's own adopted threshold for noise impacts, the threshold the County Staff Report seems to be applying is whether there is a change from golf course noise to any other noise. This is not relevant to the question of whether there is a harmful impact on neighborhood character.

The County Staff Report's analysis goes on to assert that "if the mining project were to be approved, [residents] would be hearing noise from a processing plant, material extraction and grading, and haul trucks."<sup>23</sup> But this is not so—the Final EIR analyzed whether the Project would exceed the County's accepted threshold for noise impacts at various residences. The Project imposes a number of noise barriers to reduce noise levels experienced at these residences to below the County's accepted level. The County Staff Report's generalized statement that residents will hear noise, and such noise will harm neighborhood character, is unfounded and unmoored from any evidence in the record. Further, the County Staff Report claims that "the noise would be present for the residents of this neighborhood during the life of the Project—five days a week for a minimum of ten years."<sup>24</sup> This is simply not accurate and fails to acknowledge the Project's unique phasing plan, which limits mining areas to no more than 30 acres, and progressively and incrementally moves extraction—and thus noise related to such extraction—across the site, specifically to reduce disruption within the neighborhood. Again, the County's own Noise Ordinance thresholds were applied in the Final EIR's noise modeling, which demonstrated

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<sup>21</sup> Compare to *Hilltop Group, Inc. v. County of San Diego*, *supra*, 99 Cal.App.5th at 927: "Hilltop Group's technical studies, and the County's own specialists who analyzed the studies, concluded the [Project] would not result in significant impacts in the areas of GHG emissions and air quality . . . . As we have now repeatedly explained, law opinions may not constitute substantial evidence in an area that requires expert analysis, as is the case with an air quality analysis. The Board of Supervisors' broad statement that uniform policies will not substantially mitigate the effects of the [Project] in areas of GHG emissions and air quality does not bridge the analytic gap between this finding and the scientific data and County reports that conclude the opposite."

<sup>22</sup> County Staff Report, p. 15.

<sup>23</sup> County Staff Report, p. 15.

<sup>24</sup> County Staff Report, p. 15.

that, with the installation of noise barriers, no sensitive receptor (i.e., resident) would experience noise levels exceeding the County's own standards. The Project's noise profile, while different from that of a golf course, remains within acceptable limits and is not legally or functionally incompatible with the surrounding uses.

The County Staff Report also asserts that the Project will "change the way the site looks to residents and visitors who are driving by or who live near the site."<sup>25</sup> The County Staff Report then goes on to discuss aspects of the Project during the extraction phase, including the myriad screening techniques that will be employed. The analysis does not address the Project's unique phasing, the fact that subphases will start being reclaimed and revegetated as soon as one year after extraction has begun, or that, post-reclamation in each subphase, that subphase will provide an *improvement* over existing conditions. These are all relevant points of evidence that must be considered.

Finally, the County Staff Report concludes that the neighborhood will experience "odor from diesel emissions that currently does not exist with the current golf course use."<sup>26</sup> There is no evidence in the record supporting this statement. The Final EIR expressly considered odor, noting that the Project's processing plant and truck loading area "would be located approximately 650 feet from the nearest residence" and sand extraction equipment would be operated "at least 100 feet from residences in accordance with the Project's proposed property line setbacks."<sup>27</sup> The Final EIR explains that diesel odor disperses rapidly with distance and therefore odors during construction and operation would be less than significant.<sup>28</sup> The County Staff Report does not explain why, despite these facts, odors would result in so great an impact as to harm neighborhood character. There is no evidence in the record supporting this conclusion.

In sum, the analysis of Finding 3 in the County Staff Report is not supported by evidence, and ignores the evidence in the record supporting the finding included in **Attachment B**, Form of Decision. There is ample evidence in the record supporting this finding.

#### Finding 5

Section 7358(a)(5) requires that the County consider the suitability of the site for the type and intensity of use or development which is proposed. A full analysis of the Project's consistency with this finding is provided in the MUP Findings included in **Attachment B**,

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<sup>25</sup> County Staff Report, p. 15.

<sup>26</sup> County Staff Report, p. 16.

<sup>27</sup> Final EIR, p. 3.1.1-20.

<sup>28</sup> Final EIR, p. 3.1.1-20.

Form of Decision. In sum, here, the site is suitable for the type and intensity of operations that will take place under the Project.

Specifically, the Project is consistent with the site's zoning designations (S80, S88, and S90) and the site's General Plan designation of Open Space-Recreation (OS-R)—these designations expressly allow extractive uses with a Major Use Permit. The Project advances General Plan Policies relating to the protection and utilization of mineral resources by contributing to the County's aggregate supply. Further, the Project's phased extraction plan, setbacks, noise barriers, and dust control measures ensure compatibility with adjacent residential and recreational uses.

The Project proposes to provide reliable, high-quality construction aggregate product in the amount of 570,000 tons per year. Aggregate material extracted from the site would consist primarily of washed sand suitable for PCC. As addressed earlier, the extraction of PCC-grade sand is a declared public necessity in San Diego County.<sup>29</sup>

The Project's objectives include:

1. Recover and process construction aggregates in a financially sound and efficient manner while meeting all local, state, and federal safety requirements.
2. Provide an open space resource within the County, that ultimately protects and enhances the Sweetwater River channel.
3. Provide reliable, high-quality, aggregate product in the amount of 570,000 tons per year (approximately one-quarter of San Diego County's annual sand demand).
4. Maintain the existing low-flow channel of the Sweetwater River during and after mining operations to accommodate water transfers from Loveland Reservoir to Sweetwater Reservoir and existing Sweetwater River middle watershed natural water flows.

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<sup>29</sup> See County Code, section 87.701, wherein the County Board of Supervisors formally recognized that mineral extraction "is essential to the continued economic well-being of the County of San Diego."



5. Widen the existing flood channel of the Sweetwater River to more closely mimic conditions prior to golf course construction.<sup>30</sup>

Regarding Objectives 1 and 3, sand can only be extracted on sites with known alluvial resources, which are typically located within the main river drainages of the County. As analyzed in the EIR's Chapter 4.0, Project Alternatives, there are no other known sites within the County with available alluvial sand resources and of similar size to meet 25% of the County's demand.<sup>31</sup> Further, as addressed above, mineral resources available for extraction within the County have dwindled, even though continued development, including housing development, within the County requires more resources.<sup>32</sup> As a result, locally permitted construction aggregate supply has not kept up with ever-increasing demand.<sup>33</sup> Thus, this location is appropriate (and necessary) for the Project.

Regarding Objectives 2 and 5, the Project's proposed location will permit the recovery of substantial natural open space acreage at the end of the reclamation period. The Project Site is not currently natural open space—it is currently developed with two private golf courses, vegetated with a mixture of native and non-native species, and which includes a choke point for water.<sup>34</sup> In contrast, the Project will ultimately provide a final landform that is more similar to conditions occurring before the golf courses were constructed, and which would include a re-established riparian corridor with native habitat and natural landforms consistent with the surrounding area.<sup>35</sup> This will provide an improvement in the Sweetwater River Channel over existing conditions. There is no other project location that can provide this benefit; thus, the location is appropriate (and necessary) for the Project.

Further, if the Project is approved, the Applicant will commit to offering the reclaimed site to the County, for use as permanent open space. The Project Site is located at a key location, and upon its incorporation into the County's open space system, will connect various open space areas and trails. There is no other similar potential open space area of this size and that would provide a similar level of connection benefits, within the unincorporated County.

Finally, locating a sand extraction use within the County will result in reductions of overall regional greenhouse gas emissions and overall truck vehicle miles traveled in the region at large. This is because producing more sand within the County results in less sand import

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<sup>30</sup> Final EIR, p. 1-1.

<sup>31</sup> Final EIR, p. 4-16.

<sup>32</sup> See Attachment A, Figures Depicting Loss of Local Aggregate Resources.

<sup>33</sup> Attachment A, Figures Depicting Loss of Local Aggregate Resources, p. 5.

<sup>34</sup> Final EIR, p. 1-14.

<sup>35</sup> Final EIR, p. 1-13.

to the County from outside of the region, state, and Country. Locating a sand mine within the County will reduce dependence on non-domestic sources of aggregate.

Given the above, the location, size, design, and operating characteristics of the Project will be compatible with adjacent uses, residents, buildings and structures in relation to the site's suitability for the type and intensity of use proposed. This conclusion is supported by substantial evidence in the administrative record, including technical studies and expert analysis contained in the Final EIR.

The County Staff Report's analysis of Finding 5 concludes that the Project site is "not suitable for the proposed mining operation due to its location within a suburban setting."<sup>36</sup> However, this conclusion is not supported by substantial evidence in the administrative record and fails to account in any way for the Project's compliance with applicable zoning, General Plan policies, and environmental standards. The Final EIR, along with the Project's myriad technical studies, demonstrates that the site is not only suitable for the proposed use, but is uniquely appropriate given its location's geology and value as long-term open space.

As discussed above, not only is the Project ***an allowable use under the Project site's zoning and General Plan designations***, the site's suitability is further underscored by the fact it is only one of two known locations within the County with extractable PCC-grade sand resources of sufficient quality and quantity to meet regional demand. The other site, El Monte, is still undergoing permitting, and cannot serve as a viable alternative to this Project.

Further, the County Staff Report claims, in its analysis of Finding 5, that nearby residents "assumed that they would be living near a quiet golf course."<sup>37</sup> This is not a legally relevant standard for determining site suitability. The golf course is a private, discretionary use, located on private property owned by the Applicant. That use can be discontinued or repurposed at any time. The Project also proposes a private use, on private property, that is similarly ***permitted under the General Plan and Zoning Ordinance designations*** for the site. The proposed Project will result in long-term public benefit: the restoration of nearly 150 acres of native habitat, with the potential for incorporation into the County's open space system. This outcome is far more aligned with the County's long-term land use and conservation goals than operation of an irrigated golf course.

In sum, the Project site is not only legally and physically suitable for the proposed Project's use—it is uniquely necessary to meet the County's mineral resource needs while delivering lasting environmental and open space benefits. The County Staff Report's conclusion to

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<sup>36</sup> County Staff Report, p. 18.

<sup>37</sup> County Staff Report, p. 18.

the contrary is not supported by, and is in fact contradicted by, the evidence in the record. There is ample evidence before the Planning Commission to adopt the MUP findings, including Finding 5, set forth in **Attachment B**, Form of Decision.

### **Summary of Final EIR Analyses**

#### **Significant Aesthetics Impact**

The Final EIR prepared for the Project determined that the Project has the potential to result in one significant and unavoidable environmental impact on aesthetics. All other potentially significant environmental impacts were determined to be mitigated to a level less than the County's applicable significance threshold with the imposition of concrete, enforcement mitigation measures.

As detailed in the Final EIR, mining and reclamation activities would result in adverse changes to vegetation and terrain at the existing golf courses.<sup>38</sup> During mining activities, which will not be permanent, visual quality of the site will be impacted.<sup>39</sup> However, this visual disturbance would not occur for the entirety of the mining period. As addressed throughout the Final EIR, and in the visual impacts analysis specifically:

Areas disturbed by mining activities would be progressively reclaimed and revegetated as mining proceeds across the Project site. Mining activities are planned to occur in smaller subphase areas to limit disturbance and implement phased reclamation and revegetation. **Mining activities in each subphase area would occur over an approximate duration of one year each, so that the entire Project site or phase areas would not be disturbed at one time.** Backfilling, reclamation, and revegetation would occur immediately following the completion of mining operations in each subphase area. Generally, reclamation and revegetation of each subphase would occur over a two-year period following the completion of mining.<sup>40</sup>

During the mining subphases, which will only last for an approximately one-year period in any individual location, the EIR describes how substantial screening landscaping will be installed prior to the initiation of mining, green mesh will be installed on existing chain link fencing, and, together, these screening techniques would block most views of

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<sup>38</sup> Final EIR, pp. 2.1-44 through -53.

<sup>39</sup> Final EIR, p. 2.1-25.

<sup>40</sup> Final EIR, p. 2.1-27.

elements of the Project from offsite.<sup>41</sup> Once mining in an individual subphase is completed, that subphase area will be reclaimed. “The post-reclamation visual environment would be an extension of existing pattern elements characteristic of the Jamacha valley” and once vegetation reaches maturity “vegetative diversity resulting from Project implementation would be compatible with the existing visual character of the community.”<sup>42</sup> Thus, while the EIR identified a significant impact on aesthetics, this impact would not be for the duration of mining activities for the vast majority of viewers. Further, at the close of the Project the aesthetics of the Project Site would be improved over existing conditions, as the site would be restored, improved, and offered to the County as permanent parkland.

The Final EIR describes how several Project design considerations would be implemented during the mining and reclamation phases of the Project to reduce aesthetics impacts. These include retaining approximately 64 acres where no mining activities would be permitted, adhering to the proposed rolling subphase plan (whereby mined areas are reclaimed as extraction progresses across the site over time), timely installation and removal of screening vegetation, the use of screening mesh in selective locations on fencing along Willow Glen Drive and the Steele Canyon Road bridge, the use of shielded/downward-oriented lighting, and painting mining equipment in a light color to help diminish the contrasting quality of those features.<sup>43</sup> Nonetheless, in an abundance of caution, the Final EIR determined that impacts to visual resources would be potentially significant.<sup>44</sup>

#### *Mitigated Cultural and Tribal Cultural Resources Impacts*

The Final EIR determined there would be no significant and unavoidable impacts to cultural or tribal cultural resources.<sup>45</sup> The Final EIR’s determinations were based on multiple technical reports, records surveys, site visits and field surveys, and consultation as required under AB 52.

A records survey and field survey and testing conducted with a Kumeyaay Native American monitor determined there are only three prehistoric cultural resources currently located within the Project site. While records indicate there were previously additional resources within the site, the field survey and testing determined these resources have been lost as a result of prior activities, primarily the development of the golf courses and decades of golf course maintenance. The field survey and testing conducted with a Kumeyaay

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<sup>41</sup> Final EIR, p. 2.1-26.

<sup>42</sup> Final EIR, p. 2.1-27.

<sup>43</sup> Final EIR, p. 2.1-53, -54.

<sup>44</sup> Final EIR, pp. 2.1-54 through -56.

<sup>45</sup> Final EIR, pp. 2.3-18, 2.6-5.

Native American monitor determined the three remaining resources are highly disturbed and have been subject to and damaged by 50 years of golf course development, operations, and maintenance; as a result, they now display poor integrity.<sup>46</sup> No evidence provided through tribal consultation, field survey, or testing indicates that the three remaining sites, in their present state, are culturally or spiritually significant.<sup>47</sup>

Consistent with AB 52's Native Tribes consultation requirements, the County notified all Native American Tribes recommended by the Native American Heritage Commission (NAHC) of the Project, invited them to consult, and then engaged in consultation with the six tribes that responded to the County's notice with a wish to consult. The County engaged in site visits with the consulting tribes. During this consultation process, no specific information was provided to the County as to potential cultural sites being located within the Project area.<sup>48</sup>

Under CEQA, a project would have a significant impact if it causes a substantial adverse change in the significance of a tribal resource that is listed or eligible for listing. Resources eligible for listing include those associated with significant historical events, those associated with important historic persons, those that embody distinctive characteristics of a historic period or region, or those yielding or likely to yield information important in prehistory or history. No information was obtained through tribal consultation or through the field survey with a Kumeyaay Native American monitor indicating that any resource within the project site is eligible for listing.

Nonetheless, despite there being no evidence that any known resource within the Project site would be eligible for listing, in an abundance of caution, the Final EIR acknowledges the potential for an existing yet unknown, buried resource to have escaped damage from 50 years of golf course development and maintenance. The Final EIR identifies Mitigation Measures CR-1, CR-2 and CR-3 to address this potential. CR-1 requires that a Cultural Resources Treatment Agreement and Preservation Plan meeting numerous standards and criteria be developed between the applicant and the Kumeyaay Native American tribes prior to commencement of mining. CR-2 and CR-3 require ongoing monitoring and a pre-development survey by an archeologist and Kumeyaay Native American Monitor. In the event that previously unknown cultural resources are found during the project, CR-2 also authorizes the archaeologist and Kumeyaay Native American monitor to halt operations, preserve unique resources, cap sites for their protection, and take other actions to preserve and avoid damage to the resource.<sup>49</sup>

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<sup>46</sup> Final EIR, pp. 2.6-2 through -5.

<sup>47</sup> Final EIR, p. 2.6-5.

<sup>48</sup> Final EIR, p. 2.6-3 through -5.

<sup>49</sup> Final EIR, pp. 2.6-5, 2.3-14 through -18.

### **Consistency with the County Resource Protection Ordinance (RPO)**

As detailed in the Final EIR, the Project is exempt from RPO requirements based on implementation of measures specified in Section 86.605(d) of the RPO as conditions of the Project's MUP.<sup>50</sup>

Specifically, pursuant to Section 86.605(d) of the RPO, a project would be exempt from RPO requirements provided that the following mitigation measures are required:

- a) Any wetland buffer area shall be restored to protect the environmental values of adjacent wetlands;
- b) In a floodplain, any net gain in functional wetlands and riparian habitat shall occur in or adjacent to the area of extraction;
- c) Native vegetation shall be used on steep slopes lands to revegetate and landscape cut and fill areas in order to restore substantially original habitat value, and slopes shall be graded to produce contours and soils that reflect natural landform consistent with the surrounding area; and
- d) Mature riparian woodland may not be destroyed or reduced in size due to sand, gravel, or mineral extraction.<sup>51</sup>

To satisfy the requirements of Section 86.605(d), the Project is conditioned to restore wetland buffer areas and provide a net gain in functional wetlands and riparian habitat that would be conserved in open space post reclamation. No steep slopes occur on site or would be created as a result of mining activities. The final landform is proposed to be a relatively flat plain that gently slopes downward from east to west, with a widened river channel bisecting the length of the site. Graded slopes along the expanded Sweetwater River floodplain would be revegetated with coastal sage scrub. Mature riparian woodland would not be destroyed or reduced in size due to sand, gravel, or mineral extraction.<sup>52</sup> These requirements are mandated through MUP Condition of Approval BIO#3-REVEGETATION PLAN (RIPARIAN AND UPLAND HABITAT), MUP Condition of Approval BIO#5-REVEGETATION PLAN (WETLAND AND JURISDICTIONAL HABITAT), Reclamation Plan Condition of Approval BIO#3-REVEGETATION PLAN (RIPARIAN AND UPLAND HABITAT), and Reclamation Plan Condition of Approval BIO#5-REVEGETATION PLAN (WETLAND AND JURISDICTIONAL HABITAT).

Although the Project is exempt from the RPO, Mitigation Measures M-BIO-9 (wetland and riparian habitat preservation, re-establishment, and revegetation), M-BIO-18 (USACE wetland mitigation), M-BIO-19 (CDFW jurisdictional riparian habitat mitigation), and M-

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<sup>50</sup> Final EIR, p. 2.2-10.

<sup>51</sup> Final EIR, pp. 2.2-32, -33.

<sup>52</sup> Final EIR, p. 2.2-61.

BIO-20 (wetland restoration plan) would compensate for habitat loss and mitigate potential impacts to less than significant.<sup>53</sup>

**Consistency with the County Watershed Protection, Stormwater Management and Discharge Control Ordinance (WPO)**

The WPO, and the Stormwater Standards Manual appended thereto, set out in detail what dischargers must do to comply with the WPO and to receive permits for projects and activities that are subject to the WPO.

The Project complies with the WPO through the imposition of several conditions of approval, including Reclamation Plan Condition of Approval STRMWTR#1-EROSION CONTROL, Reclamation Plan Condition of Approval STRMWTR#2-INDUSTRIAL GENERAL PERMIT, Reclamation Plan Condition of Approval STRMWTR#3-STORMWATER MAINTENANCE DOCUMENTATION, Reclamation Plan Condition of Approval DRNG#3-LINES OF INUNDATION COMPLIANCE, Reclamation Plan Condition of Approval STRMWTR#4-VERIFICATION OF STRUCTURAL BMPs, Reclamation Plan Condition of Approval STRMWTR#5-PROVISION OF STORMWATER DOCUMENTATION TO PROPERTY OWNER, and Reclamation Plan Condition of Approval STRMWTR#6-SELF-VERIFICATION OPERATION AND MAINTENANCE LETTER.

These conditions require maintenance of appropriate BMPs pursuant to the Stormwater Quality Management Plan (SWQMP) and Stormwater Pollution Prevention Plan (SWPPP), including, but not limited to, erosion control measures, irrigation systems, slope protection, drainage systems, desilting basins, energy dissipators, and silt control measures. These conditions also require a Maintenance Notification Agreement and Stormwater Facilities Maintenance Agreement to assure maintenance of the BMPs.

**STATEMENT OF OVERRIDING CONSIDERATIONS**

Because the Project would result in a significant and unavoidable impact relating to aesthetics, adoption of a statement of overriding considerations is required to approve the Project, pursuant to State CEQA Guidelines, section 15093.

A statement of overriding considerations for the Project is included in **Attachment C**, CEQA Findings of Fact. There is ample evidence in the record to support the statement of

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<sup>53</sup> Final EIR, p. 2.2-89.

overriding considerations and a finding that the myriad benefits of the Project outweigh its significant and unavoidable aesthetics impact.

Specifically:

- 1. The Project will provide a reliable, local, and high-quality source of construction aggregate product in the amount of 570,000 tons per year.** The extraction of PCC-grade sand is a declared public necessity in San Diego County. As codified in County Code, section 87.701, the County Board of Supervisors has formally recognized that mineral extraction “is essential to the continued economic well-being of the County of San Diego.” These materials are foundational to the construction of roads, homes, schools, hospitals, and other critical infrastructure that support San Diego County’s population. The County’s General Plan EIR confirms that PCC-grade sand is the scarcest and most valuable form of aggregate in the County, and that environmental and regulatory constraints have made it increasingly difficult to permit new extraction sites. The mineral resources available for extraction within the County have reduced from 25 active sand mine sites in San Diego County in 1980, to 8 by 1995, to two by 2015, to just one currently in 2025. As a result, locally permitted construction aggregate supply has not kept up with demand and San Diego County has the highest aggregate prices in California, driven in part by a shortage of local supply and the need to import sand from distant sources, including Mexico.

The Cottonwood Sand Mine Project offers a rare opportunity to secure a long-term, local source of PCC-grade sand that can meet approximately 25% of the County’s annual demand. By doing so, it will stabilize prices, reduce environmental impacts from transportation, and ensure that the County can continue to meet its infrastructure and housing needs in a cost-effective and environmentally responsible manner.

- 2. The Project will create approximately 148 acres of new permanent open space, preserved in perpetuity through recordation of an biological open space easement.** While the majority of the Project site is currently zoned as Open Space, the site is presently developed as two private golf courses, and not natural open space. Currently, significant portions of the Project site are vegetated with a mixture of native and non-native species, and the site presents a choke point for water flowing through the Sweetwater River. The Project would progressively reclaim the Project site and restore it to an end use of natural and permanent open space. The revegetation and restoration would include approximately 11 acres of coastal sage scrub and approximately 107 acres of wetland- and riparian-associated habitat, with an additional approximately 7 acres of wetland- and riparian-associated habitat that would be rehabilitated. The project also would preserve approximately 23 acres of existing on-site habitat.



The newly created open space would be preserved via recordation of a biological open space easement to be held by the County. The biological open space easement would apply to the land in perpetuity and restrict future uses to protect the biological value of the site. The land would be managed by a long-term resource manager, in conformance with the final Resource Management Plan, and ultimately result in a significant net environmental benefit to the region, connecting existing open space and preserve areas to the north and south of the Project site.

3. **The Project improves and protects in perpetuity a ecologically functional open space corridor.** Upon completion of mining and implementation of the Resource Management Plan, the Project will transform a degraded, intensively managed golf course into a biologically rich and ecologically functional open space corridor. This transformation will result in a net environmental benefit by restoring native habitats, improving hydrological function, and enhancing regional wildlife connectivity.
4. **The Project is conditioned to offer the County the 148 acres of newly created, and permanently protected, open space area, for a purchase price of \$0, and for inclusion in the County's open space network.** The Applicant has agreed to offer a significant portion of the Project site to the County for use as County open space. Specifically, upon approval, the Applicant will commit to offering at least 148 acres of the Project site to the County for a purchase price of \$0, and the County may choose to accept or reject the offer when it is made. The terms of this offer are detailed in the Project's conditions of approval, specifically MUP Condition of Approval GEN#4-LAND DEDICATION OFFER and MUP Condition of Approval GEN#7-COUNTY RIGHT OF FIRST OFFER.

The Applicant's commitment to donate nearly 150 acres of restored open space to the County presents a rare and valuable opportunity to expand the County's open space network at no cost to County taxpayers. The property, once it is fully reclaimed and revegetated under the Project's Resource Management Plan, will consist of high-quality riparian, wetland, and upland habitats that support regional biodiversity and enhance ecological connectivity. Strategically located along the Sweetwater River corridor, the site will serve as a critical linkage between existing open space areas, including the San Diego National Wildlife Refuge, and will facilitate wildlife movement and trail connectivity consistent with the County Trails Master Plan. The perpetual biological open space easement will ensure long-term conservation of these restored habitats, while the land's integration into the County park system will provide new recreational opportunities for the public, including multi-use trails and nature viewing areas. This donation represents a

lasting environmental legacy and a significant public benefit aligned with the County's conservation and recreation goals. As noted above, the Applicant has engaged the San Diego Habitat Conservancy as its long-term resource manager for the reclaimed areas. The Applicant is also currently seeking an additional nonprofit partner with specialization in water quality, monitoring, and Clean Water Act compliance, to further support its long-term management of the restored property.

- 5. The Project will restore and enhance the Sweetwater River flood channel to a more natural condition, improving water flow, flood protection, and wildlife connectivity.** The Project will widen and restore the Sweetwater River floodplain, which does not currently mimic natural conditions as a result of the prior development of the two private golf courses on the Project site. Restoring the Sweetwater River channel will provide myriad benefits, including improving the channel's ability to accommodate natural water flow, improving the channel's ability to handle and dissipate energy from large storm events, and improving habitat and wildlife connectivity in the area.

Because of the prior development of the two private golf courses, the Sweetwater River channel, which is artificially narrow and vegetated with a mix of native and non-native vegetation, currently presents a choke point for water flowing through the channel. This Project will remove this choke point and restore the channel to its natural condition: a low-flow channel within a relatively flat plain that is revegetated to support wetland/riparian habitat. This widened flood channel, more similar to conditions occurring before the two private golf courses were developed, would improve the channel's ability to accommodate natural flows and would better dissipate water energy during large storm events.

Further, post-reclamation, the Project site will provide a biologically superior condition for the Sweetwater River, when compared to the site's current developed condition. As a result of the Project, the Sweetwater River floodplain will be substantially widened and revegetated with native wetland and riparian habitat along the channel's bottom and with coastal sage scrub along the constructed channel slopes. These revegetated and restored riparian areas would then be placed within a permanent biological open space easement. This easement area will be contiguous to existing native habitat located to the east and west, including preserved areas within the San Diego National Wildlife Refuge ("SDNWR"). The revegetated channel will re-establish connectivity between upstream and downstream riparian areas by providing increased native vegetative cover. This improved connectivity will improve wildlife access to higher quality

resources and promote and facilitate wildlife use and movement in the local area and surrounding region—movement that is currently constrained by the existing golf courses.

6. **The Project is projected to provide the County with \$2,500,000 in additional sales tax revenue.** Based on an annual extraction rate of 570,000 tons per year, an anticipated and conservative sales price of \$25 per ton, and applying the County sales tax rate of 1.75%, County sales tax revenue from the Project will be approximately \$249,375 per year during the extraction phase of the Project. This will result in a total of \$2,500,000 in additional tax revenue over the life of the Project.
7. **The Project will significantly reduce water demand and consumption on the Project site.** The Project would significantly reduce water demand at the Project site, which is currently necessary to maintain the two developed private golf courses. The water demand during the Project’s mining period would reduce water consumption by approximately 83% when compared against the historic water consumption rates for the two courses. While one golf course is currently closed, in the absence of the Project, the course could be reopened at any time. After mining ceases and the restoration of the mining areas is completed, no ongoing water consumption would be required, meaning that the water consumption of the Project site would be reduced 100%. This would result in a substantial improvement in the amount of groundwater storage, and benefit regional water supplies.
8. **The Project will be restored on a rolling basis, ensuring continuous environmental enhancement, as opposed to requiring the community to wait until the end of the 10-year extraction phase to see any open space benefit.** As explained in the Final EIR, “[a]reas disturbed by mining activities would be progressively reclaimed and revegetated as mining proceeds across the Project site. Mining activities are planned to occur in smaller subphase areas to limit disturbance and implement phased reclamation and revegetation. Mining activities in each subphase area would occur over an approximate duration of one year each, so that the entire Project site or phase areas would not be disturbed at one time.” (EIR, p. 2.1-27.) Because the Project will be required to reclaim, restore, and enhance the site on a continuous basis, the community will not be required to wait until the end of the 10-year mining period to benefit from the open space restoration. The Applicant will be required to offer the reclaimed lands to County Parks as a donation, free of charge to the County. This donation could occur on a rolling basis, providing open space benefits to the community in the relative near term.

- 9. The Project will reduce overall greenhouse gas emissions and vehicle miles traveled within the County.** The Project will reduce regional and statewide mobile source greenhouse gas emissions by reducing the truck miles associated with importing construction aggregate into San Diego County from Mexico and other states. As described in the Final EIR, replacing 570,000 tons of imported sand with locally sourced sand from the Project site has the potential to *reduce vehicle miles traveled associated with meeting San Diego County's near-term sand demand by 35.8 percent*. Such a reduction in vehicle miles traveled would result in an overall reduction of greenhouse gas emissions from those vehicle miles.
- 10. The Project will construct a new pedestrian pathway and regional multi-use trail.** The Project includes the construction of a new pedestrian pathway along the northern frontage of the Project site, to improve pedestrian access within the vicinity of the Project, where there are currently no sidewalks. The public pathway would range from five to eight feet in width, and it would connect to a new publicly accessible community trail within the Project site. The multi-use community trail would be completed in segments, across the Project site as the site is reclaimed in phases.
- 11. The Project will improve Willow Glen Drive.** The Project will provide several improvements to Willow Glen Drive, including restriping the roadway to provide Class II buffered bicycle lanes on both sides of the roadway, the installation of a dedicated right-turn lane, and the installation of a two-way left turn lane. These improvements will be installed before mining activities are permitted to begin. The Project will also provide an Irrevocable Offer of Dedication along the Project frontage to accommodate the ultimate roadway width of Willow Glen Drive.
- 12. The Project will implement myriad County General Plan Goals and Policies.** As a mining project that provides a local source of high-quality and in-demand construction aggregate, the Project implements several mineral and aggregate-related goals and policies of the San Diego County General Plan. For example:
- Goal COS-10, Protection of Mineral Resources, requires the County to ensure long-term production of mineral materials adequate to meet local annual demand. Currently in San Diego County, local demand for sand aggregate far outpaces local supply, an imbalance that this Project would directly address.

- Policy COS-10.1, Protection of State-Classified or Designated Lands, discourages the development or incompatible development of lands classified or designated as having important mineral resources, and requires that the County consider the potential for substantial resource extraction in making land use decisions. This Project site is State-designated as Mineral Resource Zone (“MRZ”) 2, which is defined as an area where “significant mineral deposits are present” or likely to be present.
- Policy COS-10.6, Conservation of Construction Aggregate, requires the County to “[e]ncourage the continued operation of existing mining facilities *and streamline the permitting of new mining facilities consistent with the goal to establish permitted aggregate resources that are sufficient to satisfy 50 years of County demand.*” This Project will provide a newly permitted mining facility producing local aggregate resources.
- Policy COS-10.8, New Mining Facilities, recognizes the “public necessity for available mineral resources adequate to meet local demand.” The primary purpose of this Project is to meet local demand for sand aggregate.

Because the Project will improve and restore the Sweetwater River channel, the Project also implements General Plan policies relating to floodplain protection. For example:

- Policy S-9.2, Development in Floodplains, discourages development in floodplains, and discourages the artificial channelization of river beds. This Project will remove existing development within the floodplain (structures associated with the existing private golf courses) and return the Sweetwater River channel to a more natural and widened state, revegetated with natural wetland and riparian habitat.

Finally, by providing approximately 180 acres of optimally located open space and parkland to the County Parks system, free of charge, the Project implements the General Plan’s open space and network connectivity goals and policies. For example:

- Policy LU-6.7, Open Space Network, requires that projects design contiguous open space areas that protect wildlife habitat and corridors, and connect with existing or planned recreational opportunities.

**13. The Project will eliminate long-term potential for intensive development on the Project site.** The Project will reclaim the site on a rolling basis, with each subphase of 30-acres or less reclaimed, revegetated, and converted to high-quality, natural open space as mining progresses across the site. At the close of the extraction and reclamation phases, approximately 148 acres of the Project site will have been converted to improved and enhanced natural open space, protected in perpetuity through the recordation of an open space easement and the offer to donate the land to County Parks, free of charge, for use as publicly accessible open space and parkland. This end use will eliminate any potential for this large site to be converted to housing, affordable housing, commercial or mixed use, or intensive recreational uses, in the future.

## **GENERAL PLAN CONSISTENCY**

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The Project does not require a General Plan Amendment.

The General Plan land use designation for the site is Open Space-Recreation (**OS-R**). The County Zoning Ordinance identifies the zoning designations that are consistent with the OS-R General Plan designation. These include the S80 (Open Space); S90 (Holding Area); and S88 (Specific Planning Area) designations. As detailed below in *Zoning Ordinance Consistency*, the Project is consistent with the uses permitted by the Zoning Ordinance for these designations.

Further, Appendix B to the Final EIR includes a detailed Land Use Consistency Analysis, which considered the Project's consistency with each relevant goal and policy of the County of San Diego General Plan Land Use Element, Mobility Element, Conservation and Open Space Element, Safety Element, and Noise Element. This analysis determined that the Project was consistent with 55 goals and policies and potentially inconsistent with the remaining three. The three goals and policies with which the Project was potentially inconsistent are Goal COS-11, Policy COS-11.1, and Policy COS-11.2. Each of these relate to the protection of scenic resources. However, during the Project's mining subphases, which will only last for an approximately one-year period in any individual location, substantial screening landscaping will be planted and green mesh will be installed on existing chain link fencing; together, these screening techniques would block views of elements of the Project from offsite.<sup>54</sup>

Once mining in an individual subphase is completed, that subphase area will be reclaimed. "The post-reclamation visual environment would be an extension of existing

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<sup>54</sup> Final EIR, p. 2.1-26, -53, -54.

pattern elements characteristic of the Jamacha valley” and once vegetation reaches maturity “vegetative diversity resulting from Project implementation would be compatible with the existing visual character of the community.”<sup>55</sup> Nonetheless, in an abundance of caution, the Final EIR identifies a significant impact on aesthetics; however, this impact would not be for the duration of mining activities for the vast majority of viewers, and at the close of mining, the aesthetics of the Project Site would be improved over existing conditions, as the site would be restored, improved, and offered to the County as permanent parkland. For this reason, the Land Use Consistency Analysis included in Appendix B to the Final EIR determined that during extraction activities, the Project may pose an inconsistency with COS-11, COS-11.1, and COS-11.2 during mining, but once reclamation is completed, the Project would no longer be inconsistent. This is because, long-term, the Project would improve local scenic resources by replacing two developed golf courses with permanent open space, protected in perpetuity under an easement.

A project is consistent with a general plan if, “considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment.”<sup>56</sup> State law does not require conformity with each and every individual goal and policy of a general plan prior to a finding that a project is generally consistent and compatible with the general plan. Here, the County’s Final EIR has determined that the Project is consistent with 55 goals and policies, and in the long-term will be compatible with the remaining three. Despite short-term visual impacts to select viewers as mining proceeds across the Project site in subphases, the Project does not obstruct the attainment of any goal or policy of the San Diego County General Plan, including COS-11, COS-11.1, and COS 11.2, and therefore is consistent with the San Diego County General Plan. The Final EIR’s analysis of consistency with each relevant General Plan goal, policy, and action is attached hereto and incorporated herein as **Attachment E**.

## **ZONING ORDINANCE CONSISTENCY**

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The Project does not require a Zone Change.

The Project site includes three zoning designations: S80 (Open Space); S90 (Holding Area); and S88 (Specific Planning Area). Pursuant to County Zoning Ordinance, section 2805(c), “mining and processing” extracting uses are permitted within the S90 designation with approval of a Major Use Permit. Pursuant to County Zoning Ordinance, section 2905(d), “mining and processing” extracting uses are permitted within the S90

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<sup>55</sup> Final EIR, p. 2.1-27.

<sup>56</sup> *San Francisco Tomorrow v. City and County of San Francisco* (2014) 229 Cal.App.4th 498, 513-514.

designation with approval of a Major Use Permit. Pursuant to County Zoning Ordinance, section 2885(b), “site preparation” in relation to extractive uses are permitted in the S88 designation with approval of a Major Use Permit; however mining and processing is not.

This Project proposes extractive mining activities only within parcels within the Project site currently designated as S90. This Project also proposes site preparation activities within parcels within the Project site currently designated as S88. Thus, with approval of the Major Use Permit, the Project is consistent with the County Zoning Ordinance.

## **CEQA COMPLIANCE**

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An Environmental Impact Report (**EIR**) has been prepared for the Project, under the close oversight of County Staff. Pursuant to Public Resources Code, section 21067, and State CEQA Guidelines, section 15367, the County of San Diego is the Lead Agency for the Project. Pursuant to CEQA and the State CEQA Guidelines, the County determined that an EIR should be prepared in order to analyze all potential adverse environmental impacts of the Project.

The County issued a Notice of Preparation (**NOP**) for a draft environmental impact report for the Project on or about October 25, 2019, and circulated the NOP for a 30-day public review period.

The County then prepared the Draft EIR for the Project and initiated a 74-day public review period, ending on February 28, 2022. This comment period was significantly longer than the 45-day review period required by CEQA. As a result of the public comments received from the circulation of the Draft EIR, changes were made to the project description and the analysis of biological resource impacts. A Recirculated Draft EIR was then circulated for a 53-day public review period, ending on August 21, 2023. This public review was also longer than the 45-days required by CEQA.

The County subsequently prepared a Final EIR, consisting of the comments received during the public review periods of the Draft EIR and Recirculated Draft EIR, written responses to those comments, and revisions to the EIR. The Final EIR is available at <https://www.sandiegocounty.gov/content/sdc/pds/ceqa/MUP-18-023.html>.

The analyses contained in the Final EIR are based upon more than 25 technical studies and reports, which are appended to the Final EIR. These technical studies and reports were reviewed by County staff, peer reviewed by County’s outside consultants, and updated and revised throughout the environmental review process to respond to and address concerns and inquiries from the public. Like the body of the Final EIR, the



technical reports were provided to the public during the public review and comment periods, and are currently available at <https://www.sandiegocounty.gov/content/sdc/pds/ceqa/MUP-18-023.html>.

Based upon the technical studies, the EIR's analyses, and the entirety of the record before the County, the Final EIR concludes that the Project has the potential to result in impacts relating to biological resources, cultural and tribal cultural resources, noise, paleontological resources and aesthetics. However, within the imposition of enforceable mitigation measures, the Final EIR concludes that all impacts will be reduced to a level of less than significant with the exception of the Project's aesthetics impact, which will remain significant and unavoidable even within the imposition of all feasible project design features and mitigation measures. For a full list of the Project's mitigation measures, please refer to the MMRP attached hereto as **Attachment D**. For more information on the Project's potential impacts, prior to and with the incorporation of the mitigation measures, please refer to the CEQA Findings of Fact attached hereto as **Attachment C**, as well as to the Final EIR available at <https://www.sandiegocounty.gov/content/sdc/pds/ceqa/MUP-18-023.html>.

Because the Project will result in a significant and unavoidable aesthetics impact, approval of the Project requires the concurrent adoption of a Statement of Overriding Considerations. Here, there is substantial evidence supporting a finding that the benefits of the Project outweigh its significant and avoidable aesthetics impact. Please refer to the Statement of Overriding Considerations incorporated into the CEQA Findings of Fact, attached hereto as **Attachment C**.

Upon certification of the Final EIR, adoption of the CEQA Findings of Fact, adoption of the CEQA Statement of Overriding Considerations, and adoption of the Mitigation Monitoring and Reporting Program, the County will have satisfied all CEQA requirements relating to the Project.

## **APPLICANT'S RECOMMENDATION TO THE PLANNING COMMISSION**

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The Applicant recommends that the Planning Commission take the following actions:

1. Find and determine that the Cottonwood Sand Mine Project complies with the California Environmental Quality Act (Pub. Resources Code, § 21000 *et seq.*) (CEQA) and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 *et seq.*), the County of San Diego Resource Protection Ordinance and the County of San Diego Watershed Protection, Stormwater Management, and Discharge Control Ordinance;

2. Certify the Cottonwood Sand Mine Project Final EIR and adopt the CEQA Findings of Fact presented in **Attachment C** of the Applicant's Alternative Planning Commission Report, including the Statement of Overriding Considerations incorporated therein;
3. Adopt the Mitigation Monitoring and Reporting Program presented in **Attachment D** of the Applicant's Alternative Planning Commission Report;
4. Grant MUP PDS2018-MUP-18-023 and Reclamation Plan PDS2018-RP-001, make the findings, and impose the requirements and conditions as set forth in the Form of Decision presented in **Attachment B** of the Applicant's Alternative Planning Commission Report.

**ATTACHMENTS:**

Attachment A – Figures Depicting Loss of Local Aggregate Resources

Attachment B – Form of Decision Approving PDS2018-MUP-18-023, PDS2018-RP-001

Attachment C – Environmental Findings: CEQA Findings of Fact

Attachment D – Mitigation Monitoring and Reporting Program

Attachment E – Final EIR Appendix B, Land Use Consistency Analysis