

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD UPHOLDING THE DECISION OF THE PLANNING COMMISSION CERTIFYING SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT NO. 05-02, ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE SPORTS PARK TENTATIVE SUBDIVISION FOR TRACT NO. 5654 PROJECT LOCATED ON THE SOUTHEAST CORNER OF OXNARD BOULEVARD AND GONZALES ROAD (APN'S 215-0-010-100/-140). FILED BY CITY OF OXNARD, 305 WEST THIRD STREET, OXNARD, CA 93030.

WHEREAS, on June 1, 2006, the Planning Commission adopted Resolution No. 2005-29, certifying Final Supplemental Environmental Impact Report (SEIR) 05-02 for the Aldersgate Investment, LLC Tract No. 5654 Project; and

WHEREAS, an appeal of the certification was filed on June 7, 2006 by Susan L. Martin, Planning and Environmental Services Manager, City of Oxnard, 305 West Third Street, Oxnard, CA; and

WHEREAS, the City Council has carefully reviewed the Planning Commission decision certifying Final SEIR 05-02, the staff report, and minutes of testimony at the Planning Commission public hearing; and

WHEREAS, an Addendum was prepared that documents that modifications to the project since certification of the SEIR do not require subsequent environmental review; and

WHEREAS, the documents and other material that constitute the record of proceedings upon which the decision to certify Final SEIR 05-02 is based in the Planning and Environmental Services Division, and the custodian of the record is the Planning and Environmental Services Manager; and

WHEREAS, the City Council has conducted a hearing and received evidence in favor of and opposed to the appeal; and

WHEREAS, the City Council certifies that the final supplemental environmental impact report was completed for this project in compliance with the California Environmental Quality Act, reflects the independent judgment of the city, was presented to the City Council, and that the City Council reviewed and considered the information contained in the final environmental impact before approving the project.

NOW, THEREFORE, the City Council of the City of Oxnard resolves as follows:

- 1.) The Planning Commission's certification of Final SEIR 05-02 is hereby upheld.

- 2.) A Findings of Fact statement is contained in Exhibit A in satisfaction of CEQA Guidelines §15091.
- 3.) A Statement of Overriding Considerations is contained in Exhibit B in satisfaction of CEQA Guidelines §15092.

PASSED AND ADOPTED this 27th day of February, 2007 by the following vote:

AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:


Gary L. Gillig, City Attorney

STATEMENT OF FINDINGS OF FACT

SECTION I: Introduction

The following findings are based in part on the information contained in the Final Supplemental Environmental Impact Report (SEIR) for the Centex Homes at Oxnard and Gonzales Project (SCH# 2006041071) as well as additional facts found in the complete record of proceedings.

As defined by Section 15050 of the California Environmental Quality Act (CEQA) Guidelines, the City of Oxnard is serving as "Lead Agency," responsible for preparing the SEIR for the proposed Centex Homes at Oxnard and Gonzales Project.

In accordance with the requirements of the California Environmental Quality Act (CEQA), the City of Oxnard conducted an initial study of the application for the proposed Oxnard and Gonzales Project and determined that a Supplemental Environmental Impact Report (SEIR) should be prepared to analyze the potential impacts associated with the approval and implementation of the proposed project. The determination was based upon a review of the certified Northeast Community Specific Plan (NECSP) SEIR, Lombard/ Levy SEIR, Daily Ranch SEIR, John Laing Homes Pfeiler Property SEIR, and Gables at East Village SEIR, coupled with an initial environmental review by City staff. The project site is located within Oxnard's NECSP area. The Centex Homes at Oxnard and Gonzales Project SEIR is intended to supplement the information and analysis previously presented within the program-level NECSP EIR and the subsequent Lombard/ Levy, Daily Ranch, John Laing Homes Pfeiler, and Gables SEIRs.

A Notice of Preparation (NOP) was prepared by the City of Oxnard in October 2005 and sent to public agencies and other parties stating that a SEIR was going to be prepared by the City. In accordance with the requirements of CEQA, a 30-day period was provided for responses to the NOP. This review period ended in November 2005.

Based on the City's review of earlier environmental documentation, an initial study of the project, and consideration of the responses to the NOPs; the Draft and Final SEIR address the following topics in full detail:

- Air Quality
- Hazardous Materials/ Risk of Upset
- Land Use and Planning
- Noise
- Schools
- Transportation & Circulation

The issues of Aesthetics, Agricultural Resources, Biological Resources, Cultural Resources, Geology and Soils, Hydrology and Water Quality, Mineral Resources, Population and Housing,

Public Services and Utilities, and Recreation were identified as not being significantly impacted by project-induced changes to the environment and were, therefore, discussed in less detail.

The Final SEIR evaluated the environmental impacts of the proposed Centex Homes at Oxnard and Gonzales Project, which consists of a series of related discretionary actions proposed by the City of Oxnard including the following Planning and Zoning Permit Nos.

- 05-500-23 (Special Use Permit for Planned Residential Group)
- 05-620-4 (General Plan Amendment)
- 05-630-2 (Specific Plan Amendment to the Northeast Community Specific Plan)
- 05-570-2 (Zone Change)
- 05-300-23 (Tentative Subdivision Map)
- 06-670-1 (Development Agreement)

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City Council's decision on the Oxnard and Gonzales Project consists of the following:

- All reports, studies, maps, plans, and correspondence received from the applicant in connection with the proposed project;
- The Project Notice of Preparation, dated October 19, 2005;
- All written comments received in response to the Notice of Preparation;
- The Draft Centex Homes at Oxnard and Gonzales Project EIR (dated April 2006), incorporated by reference, including all of its appendices;
- Copies of all letters received by the City during the Draft Centex Homes at Oxnard and Gonzales Project EIR public review period;
- The meeting minutes from the May 4, 2006 public hearing held by the Oxnard Planning Commission to receive comments on the Draft EIR;
- Responses to significant environmental points raised in the letters concerning the Draft EIR and the comments made at the May 4, 2006 Oxnard Planning Commission public hearing;
- The Final Centex Homes at Oxnard and Gonzales Project EIR (dated May 2006), incorporated by reference, including all of its appendices;
- The meeting minutes from the June 1, 2006 public hearing held by the Oxnard Planning Commission to receive comments on the Final EIR and to consider the project;
- The Mitigation Monitoring and Reporting Program;
- City of Oxnard, 2020 General Plan, 1990;
- City of Oxnard, EIR for the 2020 General Plan, 1990;
- City of Oxnard, Northeast Community Specific Plan, 1993;
- City of Oxnard, Northeast Community Specific Plan EIR, 1993;
- City of Oxnard, Lombard-Levy Supplemental EIR, 1998;
- City of Oxnard, Daily Ranch Supplemental EIR, 2000;
- City of Oxnard, John Laing Homes Pfeiler Property Supplemental EIR, 2003;
- City of Oxnard, Gables at East Village Supplemental EIR, 2004

The Final SEIR and all documents identified above are hereby incorporated by reference and are available for review at the City of Oxnard Community Development Department, 305 West Third Street, Oxnard, California.

An SEIR Addendum was prepared on February 14, 2007 that documents the modifications to the project that occurred since the certification of the SEIR do not meet the CEQA tests for requiring additional or subsequent environmental review. The SEIR Addendum is incorporated by reference and is on file with the Planning and Environmental Services Manager.

SECTION II: Findings of Fact

The following findings are made in order to approve and certify the SEIR:

1. The SEIR contains all of the mandatory contents of Environmental Impact Reports, as contained in Sections 21000-21177 of the California Public Resources Code. In addition, all of the procedures for preparation and review of Environmental Impact Reports required by Article 7 of the State CEQA Guidelines have been complied with.

FINDING No. 1:

The City Council hereby finds that the SEIR for the Oxnard and Gonzales Project has been prepared in compliance with CEQA. City staff reviewed the document for accuracy, consistency, and completeness prior to its release for public review. Therefore, it is found that the SEIR document reflects the independent judgment of the City of Oxnard.

2. Pursuant to Section 15091 of the State CEQA Guidelines:

"No public agency shall approve or carry out a project for which an Environmental Impact Report has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

- 1) *Changes or alterations have been required in, or incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final SEIR.*
- 2) *Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.*

- 3) *Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measure or project alternatives identified in the final SEIR.*"

The following environmental impact findings on specific environmental issues are made in order to approve the project:

a. Air Quality

Project construction would result in temporary emissions of air pollutants; this impact is considered potentially significant.

- 1) Changes or alterations have been required in, or incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final SEIR.

The SEIR includes the following mitigation measures to address the project's construction impacts:

Mitigation Measure AQ-1:

To minimize fugitive dust and emissions associated with construction activities and to reduce the risk of exposure to San Joaquin Valley Fever, the following mitigation measures, which includes mitigations from the original NECSP Final EIR, shall be required:

- a) At all times during construction activities, all graded and excavated material, exposed soils areas, and active portions of the construction site, including unpaved onsite roadways, shall be treated to prevent fugitive dust. Treatment shall include, but not necessarily be limited to, periodic watering, application of environmentally safe soil stabilization materials, and/or roll-compaction as appropriate. Watering shall be done as often as necessary and reclaimed water shall be used whenever possible. Developer shall apply sufficient water to all major soil disturbance areas to maintain a soil moisture of 4% in the upper 6" soil stratum. Other equally effective dust pallatives shall be used if drought conditions limit water availability.
- b) Perform daily street sweeping at the conclusion of each workday to a distance of 250 feet in either direction of any construction site access entrance until all paving is completed.
- c) Wash off truck leaving the site and tarp any truck hauling dirt to and away from the site as required by California Vehicle Code §23114, with special attention to Sections 23114(b)(F), (e)(2) and (e)(4) as amended, regarding the prevention of such material spilling onto public streets and roads.
- d) Double sandbag all site perimeters adjoining traveled roads from November to April to prevent dirt from washing off the site.
- e) Establish landscaping within 90 days of the completion of grading, or hydroseed with a native plant mix as an interim ground cover to prevent wind erosion.

- f) Terminate all grading, excavation and travel on unpaved surfaces when hourly wind speeds exceed 30 mph. The contractor shall maintain contact with the APCD meteorologist for current average wind speeds.
- g) Apply non-hazardous soil stabilizers to all inactive portions of the construction site.
- h) Developer shall implement a Transportation Demand Management Program (TDMP) during construction. Elements of the program shall include:
 - 1. Provide rideshare incentives for all workers onsite.
 - 2. Provide construction personnel parking off arterial roadways to minimize traffic interference.
 - 3. Schedule receipt of concrete, asphalt, steel and other materials from 9 a.m. to 3 p.m. as much as practically possible.
 - 4. Restrict any lane closures of public roadways to the hours of 9 a.m. to 3 p.m.
 - 5. Complete all street sweeping/ washing of adjacent roadways by 4 p.m.
- i) Developer shall ensure that all construction equipment is maintained and tuned to meet applicable Environmental Protection Agency (EPA) and California Air Resources Board (CARB) emission requirements. At such time as new emission control devices or operational modifications are found to be effective, Developer shall immediately implement such devices or operational modifications on all construction equipment.
- j) Personnel involved in grading operations, including contractors and subcontractors, should be advised to wear respiratory protection in accordance with California Division of Occupational Safety and Health regulations.
- k) Use of air-conditioned cabs in heavy construction and grading equipment should be implemented where possible.
- l) Developer shall minimize the area disturbed by clearing, grading, earth moving, or excavation operations to prevent excessive amounts of dust.
- m) Developer shall water the area to be graded or excavated daily prior to commencement of grading or excavation operations. Such application of water shall penetrate sufficiently to minimize fugitive dust during grading activities.
- n) Developer shall post and maintain onsite signs, in highly visible areas, restricting all vehicular on-site traffic to 15 miles per hour or less.
- o) Developer shall use lower VOC paints to greatest extent feasible.
- p) Prior to grading permit approval, Developer shall include on the grading plans a reproduction of all applicable mitigation conditions.

Based on the above facts:

FINDING No. 2:

The City Council hereby finds that all feasible and reasonable mitigation measures for impacts relating to air quality have been identified in the SEIR and are included in the Mitigation Monitoring and Reporting Program and Conditions of Approval for the project. The proposed mitigation measures will reduce impacts relating to air quality to a level of insignificance pursuant to Section 15091(a)(1) of the CEQA Guidelines.

b. Cultural Resources

Site development has the potential to disturb as-yet undetected areas of prehistoric archaeological significance. This is considered a potentially significant impact.

- 1) Changes or alterations have been required in, or incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final SEIR.

The SEIR includes the following mitigation measures to address this possible cultural resources impact:

Mitigation Measure CR-1:

Developer shall contract with a Native American monitor to be present during all subsurface grading, trenching or construction activities on the project site. The contract shall include weekly reports from the monitor to the Planning Division summarizing the monitor's activities during the reporting period. A copy of the contract for these services shall be submitted to the Planning and Environmental Services Manager for review and approval prior to issuance of any grading permits. The monitoring report(s) shall be provided to the Planning Division prior to approval of final building occupancy for each building.

Based on the above facts:

FINDING No. 3:

The City Council hereby finds that all feasible and reasonable mitigation measures for cultural resources impacts have been identified in the SEIR and are included in the Mitigation Monitoring and Reporting Program and Conditions of Approval for the project. The proposed mitigation measures will reduce impacts relating to cultural resources to a level of insignificance pursuant to Section 15091(a)(1) of the CEQA Guidelines.

c. Geology & Soils

The City of Oxnard is located in an area that has a high potential for seismic ground shaking. There are no known active faults within the City limits. However active and potentially active faults are present in the surrounding region and may extend into the subsurface beneath the City. In addition, the City of Oxnard 2020 General Plan identifies the proposed project site as being located in an area that is marked by high to moderate potential for liquefaction. Impacts, therefore, would be considered potentially significant.

- 1) Changes or alterations have been required in, or incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final SEIR.

The SEIR includes the following mitigation measures to address this possible geologic impact:

Mitigation Measure GEO-1:

The applicant shall submit a site-specific soils investigation prepared by a licensed geotechnical engineer. At a minimum, the study shall include liquefaction and compressible soils characteristics on-site and shall identify any necessary construction techniques or other mitigation measures to prevent significant liquefaction/ compressible soils impacts on the proposed project. All recommendations of the report shall be incorporated into the project as conditions of approval. The report shall be submitted concurrently with plans submitted for review by the Building Official.

Based on the above facts:

FINDING No. 4:

The City Council finds that all feasible and reasonable mitigation measures for cultural resources impacts have been identified in the SEIR and are included in the Mitigation Monitoring and Reporting Program and Conditions of Approval for the project. The proposed mitigation measures will reduce impacts relating to cultural resources to a level of insignificance pursuant to Section 15091(a)(1) of the CEQA Guidelines.

d. Hazardous Materials/ Risk of Upset

Elevated levels of pesticides resulting from the former agricultural use of the project site were found in soils on a portion of the site. This is considered a potentially significant impact to human health. The project's close proximity to the railroad tracks could result in injuries or fatalities to project users due to trespassing and/ or a train accident. This is considered a potentially significant impact

3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final SEIR.

The SEIR includes the following mitigation measures to address the possible soil contamination and railroad risk of upset impacts:

Mitigation Measure HAZ-1:

As the Phase I ESA included only a very limited soil sampling and low levels of DDT and DDE pesticide residuals were detected in the limited soil sampling effort, an expanded assessment of surface and shallow subsurface soils shall be required to detect the presence of soil contamination, including testing for elevated pesticide concentrations, arsenic and other heavy metals. If further evidence of soil contamination is identified as a result of these assessment efforts, corrective remediation measures (in accordance with applicable local, state, and federal protocols) for the identified contaminated areas shall be required to be implemented prior to initiation of grading work in those areas. If the cut and fill associated with the proposed grading operation is not balanced on-site, any excess contaminated soils shall be required to be disposed of at a proper facility (in accordance with applicable local, state, and federal protocols).

Mitigation Measure HAZ-2:

To reduce attractive nuisance impacts associated with the proposed project's location adjacent to railroad tracks, fencing and a landscape and bermed buffer shall be installed along the project's western boundary separating the proposed Class A bike pathway from the tracks.

Mitigation Measure HAZ-4:

Consistent with the City of Oxnard 2020 General Plan, in order to minimize health and safety impacts related to the potential catastrophic release of hazardous materials, the City of Oxnard shall review and update (as necessary) its Emergency Preparedness Plan to address the potential catastrophic release of hazardous materials associated with a train accident. To insure increased public awareness, such plan shall be made readily available for use and review on the City's website.

Despite the application of the mitigations identified above, impacts associated with the potential loss of life associated with a catastrophic train accident would remain significant and unavoidable. Alternatives to the proposed project, were, therefore considered. Analysis of the project alternatives included consideration of a No Project Alternative, a Multifamily Redesign Alternative, and an Alternative Site. The SEIR identified that the Hazards/ Risk of Upset impacts associated with the Alternative Site (the Maulhardt property located in the East Village area of the Northeast Community Specific Plan) would be substantially less than the impacts associated with either the Proposed Project or the Multifamily Redesign Alternative; the Alternative Site was identified as the Environmentally Superior Alternative. Although development of the Alternative Site would satisfy the basic project objectives and would have lesser environmental impacts than the proposed project, because the Alternative Project Site is not currently for sale and the project applicant retains no controlling interests in the property, the Environmentally Superior Alternative is not considered feasible for the applicant.

A **Statement of Overriding Considerations** has been prepared and adopted for the unmitigated Class I impact associated with the risk of loss of life associated with a catastrophic train accident.

Based on the above facts:

FINDING No. 5:

The City Council finds that all feasible and reasonable mitigation measures for hazardous impacts/ risk of upset have been identified in the SEIR and are included in the Mitigation Monitoring and Reporting Program and Conditions of Approval for the project. The project alternatives identified in the Final SEIR capable of reducing hazardous impacts/ risk of upset to a less than significant level are infeasible for the applicant due to specific economic and legal justifications pursuant to Section 15091(a)(3) of the CEQA Guidelines.

e. Land Use

The proposed project's conversion of a portion of the project site (approximately 13 acres) to residential-related uses (residences and street improvements) would be inconsistent with the Oxnard 2020 General Plan, NECSP, and City Zoning Ordinance. The conversion of land designated for parks to residential-related uses and the associated amendments/ rezone is considered a potentially significant impact. The proposed project would generally be compatible with adjacent land uses; however, land use conflicts relating to noise and lighting could occur. This is considered a potentially significant impact.

- 1) Changes or alterations have been required in, or incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final SEIR.

The SEIR includes the following mitigation measures to address the possible land use and planning impacts:

Mitigation Measure LUP-1:

In order to address the potential loss of approximately 13 acres of land currently designated for parks and in order to ensure the continued availability of land reserved for such uses, the applicant shall set aside funds for the City staff to identify an additional 13 acres of City park land and to initiate a general plan amendment/ rezone of this equivalent land area.

Mitigation Measure LUP-3:

In order to minimize potential impacts associated with nighttime and weekend activity associated with the project's sports park, prior to issuance of building permit, lighting specifications shall be developed by the applicant's lighting contractor in consultation with the Parks Department with explicit performance criteria for lighting equipment and light levels (intensity) for all outdoor recreational areas. The lighting specifications shall ensure that adequate lighting is available for sporting events, but with strict control of nuisance spill-over light onto adjacent residential areas.

Photometric reports from an independent laboratory shall be required under the specifications to demonstrate the exact design and construction criteria proposed by the lighting contractor would meet the mandated light restrictions. Lighting technicians shall also be required to test, measure the illumination levels, and adjust the equipment as necessary following installation, to ensure compliance with the lighting specifications. The lighting specifications shall specify that lighting shall be dimmed 15 minutes following active use of the sports park facility(ies) and shall be extinguished within 60 minutes after the end of said use, and not later than 10:00 PM. This mitigation shall not apply to lighting fixtures utilized specifically and only for safety purposes.

In addition, the SEIR includes mitigation measures N-3, N-4, N-5, N-6, and N-7 (Noise) in Section 5.0 of the SEIR to address possible impacts relating to increased noise.

Based on the above facts:

FINDING No. 6:

The City Council finds that all feasible and reasonable mitigation measures for land use impacts have been identified in the SEIR and are included in the Mitigation Monitoring and Reporting Program and Conditions of Approval for the project. The proposed mitigation measures will reduce impacts relating to land use compatibility to a level of insignificance pursuant to Section 15091(a)(1) of the CEQA Guidelines.

Noise

Noise levels from traffic along Gonzales Road and Oxnard Boulevard, in addition to train noise from the adjacent railroad line, would exceed the normally acceptable range for residential uses. This is considered a potentially significant impact.

- 1) Changes or alterations have been required in, or incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final SEIR.

The SEIR includes the following mitigation measures to address potential noise impacts relating to project operations:

Mitigation Measure N-3/ N-4/ N-5:

To mitigate traffic noise associated with the Year 2025 general plan build-out on traffic volumes along Gonzales Road and Oxnard Boulevard (assuming construction of the fly-over) as well as train noise, an acoustician shall review the final project site plans prior to issuance of grading permits and designate the final placement and specific height of sound berms/walls in order to achieve minimum City exterior noise standards (65 dB CNEL) for all proposed residences.

Mitigation Measure N-6:

To confirm the initial findings of this EIR relative to the proximity of existing and proposed housing units from the proposed park uses, a follow-up noise study shall be conducted prior to issuance of grading permits. To mitigate any potential noise impacts identified through this study, additional setbacks, limitations on park hours, and/ or other mitigation as recommended by a City-approved acoustician shall be implemented in order to achieve minimum City exterior noise standards (65 dB CNEL) for all existing and proposed residences.

Mitigation Measure N-7:

To address potentially significant interior noise impacts, an interior noise study shall be required prior to issuance of building permits for all proposed residences in order to ensure that the interior noise levels would not exceed a CNEL of 45 dB. The homes on

these lots would most likely require air-conditioning or mechanical ventilation so that the windows could be closed at the occupant's discretion. Sound-rated windows may also be required.

Based on the above facts:

FINDING No. 7:

The City Council finds that all feasible and reasonable mitigation measures for noise impacts have been identified in the SEIR and are included in the Mitigation Monitoring and Reporting Program and Conditions of Approval for the project. The proposed mitigation measures will reduce impacts relating to noise to a level of insignificance pursuant to Section 15091(a)(1) of the CEQA Guidelines.

g. Schools

The proposed project would generate approximately 75 students total per year, comprised of 47 K-6 students, 11 K-8 students, and 17 high school (9-12) students. According to the Oxnard Union High School District, it is currently has a capacity shortage of 2,629 seats while the Oxnard School District continues to report overcrowding of its school facilities. As the NECSP Final EIR and related Supplemental EIRs did not contemplate that any home sites would be developed on the subject property, the generation of an additional 75 students has not previously been considered. In order to meet the new demand of 75 students associated with the project, the applicant would be required to pay school fees on a per unit basis in accordance with the NECSP School Agreement that was established with local school districts to provide a method for mitigating the impacts on schools from projects developed within the Specific Plan area. Because the proposed project includes a greater density of development and would subsequently generate additional students attending schools within the Oxnard Elementary and Oxnard Union High School Districts, the applicant will be required to pay school mitigation fees in accordance with Senate Bill (SB) 50. Impacts to schools are considered potentially significant.

- 1) Changes or alterations have been required in, or incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final SEIR.

The SEIR includes the following mitigation measures to address potential school impacts:

Mitigation Measure SCH-1:

To reduce potential impacts to schools to less than significant levels, the applicant shall pay school impact fees to the Oxnard School District and Oxnard Union High School

District consistent with State law prior to issuance of building permits.

Based on the above facts:

FINDING No. 8:

The City Council finds that all feasible and reasonable mitigation measures for school impacts have been identified in the SEIR and are included in the Mitigation Monitoring and Reporting Program and Conditions of Approval for the project. The proposed mitigation measures will reduce impacts relating to schools to a level of insignificance pursuant to Section 15091(a)(1) of the CEQA Guidelines.

h. Transportation/ Circulation

A traffic and circulation study for the project was conducted by Associated Transportation Engineers (ATE) and was the basis for the SEIR traffic analysis. The NECSP previously contemplated the 25-acre project site as a community sports park. The NECSP consists of a mix of residential, office, commercial, school and parkland uses and has been the subject of several amendments since its original adoption in 1994. As the proposed Centex Homes at Oxnard and Gonzales project consists of 101 residential dwellings and approximately 11 acres of parks, green belts and open space on the 25-acre site, the ATE traffic and circulation study updated the previously approved NECSP Amendment traffic studies with this new project information.

As the original NECSP traffic study identified impacts to the local street system and mitigation measures to offset those traffic impacts, the previously identified mitigation measures were assumed for the analysis of the proposed project. Also, the project description includes the standard mitigations that require the payment of all required city and county traffic fees and assessments to offset cumulative traffic impacts. The traffic and circulation study prepared by ATE may be found in its entirety within the EIR Appendix.

Operation of the Oxnard Boulevard/ Gonzales Road intersection during the P.M. peak hour period would result in a change in ICU of 0.02 or greater. Related impacts are considered potentially significant. During the P.M. peak hour period, the project would have a significant, but mitigable impact (Class II) to the Oxnard Boulevard/ Gonzales Road intersection since it would result in a change in ICU greater than 0.02 at the intersection.

- 1) Changes or alterations have been required in, or incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final SEIR.

The SEIR includes the following mitigation measures to address potential transportation/

circulation impacts:

Mitigation Measure TC-2:

To mitigate project-specific impacts to the Oxnard Boulevard/ Gonzales Road intersection, the project must complete the master planned facilities within the project area (as per Section 7 of City Resolution 10,453). The project shall also be required contribute to construction of the identified planned improvements through participation in the City of Oxnard Traffic Mitigation Fee Program.

Based on the above facts:

FINDING No. 9:

The City Council finds that all feasible and reasonable mitigation measures for transportation/ circulation impacts have been identified in the SEIR and are included in the Mitigation Monitoring and Reporting Program and Conditions of Approval for the project. The proposed mitigation measures will reduce impacts relating to transportation/ circulation systems to a level of insignificance pursuant to Section 15091(a)(1) of the CEQA Guidelines.

i. Alternatives

The SEIR examines three alternatives to the proposed project, as described below.

Alternative 1 - No Project. Under the “No Project” scenario, the 20.97-acre Centex property would remain vacant and the existing 3.97-acre developed City park site would remain available for limited public recreational use. Based upon the property’s current two-parcel configuration and zoning of Community Reserve (CR), one (1) single-family residential unit could be developed on each Centex parcel. The No Project Alternative, therefore, considers the environmental impacts associated with two primary single-family residences and the existing four-acre City park.

Alternative 2 - Multifamily Condominium/Sports Park Redesign Alternative. Under the “Multifamily Condominium/ Sports Park Redesign Alternative” scenario, the existing City park (4 acres) and the Centex property (21 acres) would be subdivided to create a 101-unit multifamily condominium complex on approximately 9 acres (Medium Density Residential/ R-3 zoning), with the remaining 16 acres (12 acres owned by the applicant and 4 acres owned by the City) devoted to parks, greenbelts, and open space.

Alternative 3 – Alternative Project Site for Housing. Under the “Alternative Project Site for Housing” scenario, the 101-unit residential portion of the project would be relocated to a portion of the Maulhardt property (APN 214-002-059), a 107.25-acre parcel located within the County of Ventura within an unincorporated “island” surrounded by land falling under jurisdiction of the City of Oxnard. The property is

generally bounded by Camino del Sol to the south, Rose Avenue to the west, Cesar Chavez Drive to the north, and Gibraltar Street to the east.

- 4) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measure or project alternatives identified in the final EIR.

The No Project alternative is physically feasible, but is not considered a desirable alternative because it would leave the project site in its current vacant state with no immediate recreational development of the site. In addition, implementation of this alternative would not fulfill the basic objective of the project, which is to develop an attractive residential development in the NECSP area. It should be noted, however, that implementation of the No Project Alternative at this time would not likely preclude future development of the site in accordance with the Oxnard General Plan and NECSP.

Alternative 2 is physically feasible. However, it does not meet the project objective of providing an attractive single family residential development within the Northeast Community Specific Plan area. In addition, because the proposed project's environmental effects would be similar to those associated with this alternative, implementation of Alternative 2 in lieu of the proposed project is not considered advantageous.

Although Alternative 3 (the Environmentally Superior Alternative) is physically feasible, it is not legally or financially feasible for the applicant. Because the Alternative Project Site is not currently for sale and the project applicant retains no controlling interests in the property, the Environmentally Superior Alternative is not considered feasible for the applicant.

Based on the above facts:

FINDING No. 10:

The City Council finds that all feasible and reasonable mitigation measures for impacts associate with the project have been identified in the SEIR and are included in the Mitigation Monitoring and Reporting Program and Conditions of Approval for the project. The project alternatives identified in the Final SEIR capable of reducing hazardous impacts/ risk of upset to a less than significant level are infeasible for the applicant due to specific economic and legal justifications pursuant to Section 15091(a)(3) of the CEQA Guidelines.

3. Miscellaneous Findings

Revisions to the Draft EIR were made as a result of the comments submitted on the Draft EIR. These revisions (incorporated into the Final EIR) only clarify, amplify, or make insignificant modifications to the Draft EIR. None of these revisions represent significant new information that would result in the identification of a new significant impact or an increase in severity of such an impact, from either the project or from a new mitigation measure proposed for implementation as part of the project. Nor do these revisions include a new mitigation measure to reduce a significant impact that has been declined by the project applicant.

Based on the above facts:

FINDING No. 11:

The City Council of the City of Oxnard finds that Section 15088.5 of the State CEQA Guidelines did not require recirculation of the Final EIR, as the revisions made to the Draft EIR merely clarified or amplified information found in that document.

End of document

Statement of Overriding Considerations

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a project against its unavoidable risks when determining whether to approve a project. If the specific economic, legal, social, technological or other benefits of the project outweigh the unavoidable adverse environmental effects, those effects may be considered acceptable (state CEQA Guidelines Section 15093(a)).

In accordance with the requirements of CEQA and the state CEQA Guidelines, the City Council finds that the mitigation measures identified in the Final SEIR and the Mitigation Monitoring and Reporting Program, when implemented, avoid or substantially lessen virtually all of the significant effects identified in the FEIR. The potential for a catastrophic release of toxic materials associated with a train accident, hazards/ risk of upset impacts related to this issue would remain significant and unavoidable despite consideration of mitigations.

The City has balanced the benefits of the Centex Homes at Oxnard and Gonzales Project against the unavoidable significant impact identified above in determining whether to approve the project and has determined that the benefits of the Project outweigh the project's unavoidable hazards/ risk of upset impacts. The benefits set forth below constitute overriding considerations warranting approval of the project:

- 1) The project will provide substantial, increased recreational opportunities for all residents of the City of Oxnard. Among other facilities, the project calls for approximately 11 acres of parks and greenbelts, including approximately two acres of Class A bike lane parallel to the Union Pacific Railroad tracks that will connect a proposed 1-acre neighborhood park to the sports park. The sports park will consist of basketball courts, a tot lot, an Olympic-sized swimming pool and related facilities building, and two play fields. The sports park would also have on-site parking. Based on substantial public testimony received during the project's consideration, the swimming facility will be of particular value and importance to the residents of Oxnard.
- 2) The project will result in the addition of 101 dwelling units to the City's available housing stock. The developer would be required to pay an in lieu fee for affordable housing fee in accordance with Ordinance 2615. The addition of homes would help to rectify both a local and regional housing shortage.
- 3) The project will widen and improve portions of Gonzales Road and Entrada Drive and construct parkway and sidewalk improvements along Gonzales Road in accordance with the Northeast Community Specific Plan requirements. In addition, the project will dedicate the right-of-way necessary to complete accommodate the planned Gonzales Road Fly-Over, a planned circulation improvement identified within the Oxnard 2020 General Plan and Northeast Community Specific Plan. As the Gonzales Road-Oxnard Boulevard intersection is currently impacted during the P.M. Peak hour (4 pm – 6 pm),

the proposed improvements and right-of-way dedication will enhance circulation within this portion of the City.

Based on the above facts:

The City Council finds that the benefits of the Project outweigh the significant and unavoidable impacts related to hazards/ risk of upset, which are deemed acceptable, consistent with Section 15093 of the CEQA Guidelines.

SUBSTANTIAL EVIDENCE

The City Council finds and declares that substantial evidence for each and every finding made herein is contained in the Draft SEIR, Final SEIR, and other related materials, each of which is incorporated herein by this reference, and in the record of proceedings in the matter. Moreover, the City Council finds that where more than one reason exists for any finding, the City Council finds that each reason independently supports such finding, and that any reason in support of a given finding individually constitutes a sufficient basis for that finding.

DE MINIMUS IMPACT ON FISH AND WILDLIFE

The City Council finds that the SEIR evaluated the Proposed Project's potential for significant environmental impacts. When considering the record as a whole, there is no evidence before the B City Council that the Proposed Project will have a potential for an adverse or significant effect on wildlife resources or the habitat upon which wildlife depends. Based on the record of proceedings, the presumption of adverse effect set forth in 14 California Code of Regulations, Section 753.5(d), does not apply in this case. Therefore, the City Council finds that the Proposed Project would be de minimis in its impact on fish and wildlife.