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TO: Planning Commission Agenda of: July 11, 2013

FROM: Tom Dougherty, Project Planner Item No.: 8.c

DATE: June 28, 2013

RE: **PD12-0003/Green Valley Convenience Center; Revised Conditions of Approval 6, 7, and 8 (Mitigation Measures)**

We have received information from the U.S. Army Corps of Engineers that they have determined the project avoids the wetlands and a Clean Water Act Section 404 permit would not be required. Subsequently, we received information from the Central Valley Regional Water Quality Control Board staff that since the federal permit is not required, that neither is their Clean Water Act Section 401 Water Quality Certification.

We are recommending that the following revisions be made to the recommended mitigation measures to clarify and tie them together more efficiently and accurately. The recommended changes do not decrease the requirements of the recommended mitigation measures:

6. **BIO-2:** Intermittent Stream: The applicant is required to submit a re-vegetation plan which shall include the following:
 - a. Best Management Practices that conform with the County's California Stormwater Pollution Prevention Plan, issued by the State Water Resources Control Board for erosion and sediment control, shall be incorporated into the project development plans and implemented as approved by Building Services during the grading permit process.
 - b. No equipment shall be allowed within the water channel.
 - c. Construction fencing shall be installed at the ten-foot setback line defined by the Biological and Jurisdictional Delineation Report Updates for the Green Valley Convenience Center dated May 1, 2013 to prevent and avoid accidental fill and/or equipment entering the setback and creek. The fencing shall be installed prior to initiation of any grading; and

- d. The re-vegetation/~~restoration~~ plan for that area shall include planting no fewer than 18 native riparian trees consisting of a combination of willows of the species *Salix lasiolepis*, *S. gooddingii*, or *S. exigua*; Fremont cottonwoods (*Populus fremontii ssp. fremontii*), and valley oaks (*Quercus lobata*) but must include at least six cottonwoods and three willows in the southern portion of the parcel outside of the project footprint. The cottonwoods shall be planted at least 60 feet away from the project footprint and Sophia Parkway. The planting shall occur within one year of the initiation of project construction. The success criterion shall be the survival of the 18 riparian trees ~~two~~ five years after planting.

Monitoring Responsibility: Planning Services and Building Services

Monitoring Requirement: The applicant shall include mitigations a-d above on the grading permit plans. Planning Services shall review the grading permit plans to ensure their inclusion prior to issuance of a grading permit. The Building Services field inspector shall verify compliance with said mitigations upon site inspection for the grading permit. Planning Services shall make a field inspection of the planted area prior to finaling the grading permit.

7. **BIO-3:** Streambed Alteration Agreement: A Streambed Alteration Agreement, pursuant to Fish and Wildlife Code 1602, shall be obtained by the applicant from the California Department of Fish and Wildlife, if applicable, ~~for each stream crossing and any other activities affecting the bed, bank, or associated riparian vegetation of any stream on the site. Authorization prior to placement of any fill is required from the U.S. Army Corps of Engineers if any impacts are proposed to jurisdictional riparian habitat. This authorization may require mitigation as deemed necessary by the Corps of Engineers.~~ The Agreement shall address the following to the satisfaction of the Department of Fish and Wildlife, if determined to be applicable after review of the development plans for that area:

The applicant will provide an approved ~~restoration~~ re-vegetation plan for riparian planting, consistent with BIO-2. Elements of that plan will include:

- a. A map of locations and species for the plants installed in the ~~restoration~~ re-vegetation planting area;
- b. A discussion of performance standards stating that ~~80~~ 100 percent of the 18 planted trees will be alive at the end of the five-year monitoring;
- c. The method for determining whether plantings are alive at the end of each monitoring year (that is, each tree will be counted and determined to be dead or alive; dead trees will be replanted);
- d. A discussion of contingency measures that could be used in the event that the restoration plantings fail. These measures could include, but are not limited to,

making additional plantings and extending the monitoring period or purchasing additional credits in an acceptable fund or mitigation bank;

- e. Submission of annual reports for the ~~restoration~~ re-vegetation project to the Department of Fish and Wildlife; and
- f. This plan must be approved by the Department of Fish and Wildlife before County permits are issued.

Monitoring Responsibility: Planning Services

Monitoring Requirement: The applicant shall provide a copy of the 1602 Streambed Alteration Agreement to Planning Services prior to issuance of the grading permit. If it has been determined by Fish and Wildlife that said permit does not apply after their review of the development plans, the applicant shall provide Planning Services with verification from Fish and Wildlife that no Agreement is needed for the project, prior to issuance of a grading permit for the intermittent stream riparian habitat area.

- ~~8. **BIO-4: Water Quality Certification:** A Water Quality Certification, Section 401 permit, if applicable, shall be obtained by the applicant from the California Central Valley Regional Water Quality Control Board for applicable project improvements prior to issuance of a grading permit. The Certification shall include (subject to CVRWQCB approval):~~
- ~~a. The applicant will prepare a Storm Water Pollution Prevention Plan for approval. That plan will describe methods for ensuring downstream water quality during grading and/or restoration and will be implemented during those processes.~~
 - ~~b. Work areas will be separated by buffers and orange construction fencing to delineate the preserved riparian areas. No grading will be allowed within the fenced-off buffer zones.~~
 - ~~c. Waste and construction materials will be placed where they will not run off into the stream, or they will immediately be removed off site.~~

~~Monitoring Responsibility:~~ Planning Services/Building Services

~~Monitoring Requirement:~~ The applicant shall provide a copy of the Section 401 permit to Planning Services prior to issuance of the grading permit. The Storm Water Pollution Prevention Plan shall be reviewed and approved by Building Services prior to issuance of a grading permit. If it has been determined by the California Regional Water Quality Control Board that said permit does not apply after their review of the development plans for the grading permit, the applicant shall provide Planning Services with confirmation from the RWQCB of that determination prior to issuance of the grading permit.