PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS **BUILDING STRONG®**
LOS ANGELES DISTRICT

APPLICATION FOR PERMIT
Executive Ridge Industrial Project

Public Notice/Application No.: SPL-2011-00669-RJV
Project: Executive Ridge Industrial Project
Comment Period: March 30 – April 15 2012
Project Manager: R.J. Van Sant; 760-602-4837; Richard.J.Vansant@usace.army.mil

Applicant
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Location
The proposed Executive Ridge Industrial Project site is located adjacent to San Marcos Boulevard, between Business Park Drive to the west and Rancho Sante Fe Road to the east, in the City of Vista, San Diego County, California (APN # 221-661-23). The site lies within Section 17; Township 12 South, Range 3 West of the San Bernardino Base and Meridian; U.S. Geological Survey 7.5' San Marcos, Quadrangle (Latitude 33.133124°North and Longitude –117.22271° West) (Figure 1).

Activity
The Executive Ridge Industrial Project site is a proposed industrial development, which would develop the approximately 17-acre property into approximately 11.7 acres of usable pad and remaining manufactured and natural slopes. The purpose of the project would be to develop an industrial office park consistent with the Vista Business Park Specific Plan. The project would include construction of one street cul-de-sac for access off West San Marcos Boulevard. The graded pads would be hydroseeded with a non-invasive, non-irrigated seed mix as an interim condition to build-to-suit industrial buildings that are proposed to be constructed by the applicant. The project site is situated on a steep south-facing slope and would require significant cut and fill in order to make the site developable.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). We invite you to review today's public notice and provide views on the proposed work. By providing substantive, site-specific comments to the Corps Regulatory Division, you provide information that support the Corps' decision-making process. All comments received during the comment period become part of

the record and will be considered in the decision. This permit will be issued, issued with special conditions, or denied under Section 404 of the Clean Water Act. Comments should be mailed to:

LOS ANGELES DISTRICT, CORPS OF ENGINEERS
REGULATORY DIVISION
CARLSBAD FIELD OFFICE
ATTN: SPL-2011-00669-RJV
6010 HIDDEN VALLEY ROAD, SUITE 105
CARLSBAD, CA 92011

Alternatively, comments can be sent electronically to: Richard.J.Vansant@usace.army.mil

The mission of the U.S. Army Corps of Engineers Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable water and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps considers the views of other Federal, state and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the United States. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem system functions and services.

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

Water Quality- The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. Section 401 requires that any applicant applying for a Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance. The applicant has applied for Section 401 Water Quality Certification for the proposed action.

Coastal Zone Management- This project is located outside the coastal zone and a preliminary review indicates that it would not affect coastal zone resources. A final determination of whether this project affects coastal zone resources will be made by the Corps, in consultation with the California Coastal Commission, after review of the comments received on this Public Notice.

Cultural Resources- Numerous archaeological resources have been recorded in the project vicinity; however, no sites have previously been identified within the project area itself. No archaeological or historic resources were identified during the most recent cultural survey. The Native American Heritage Commission (NAHC) has no record of sacred lands within the project area. Due to the potential for subsurface artifacts, Native American and cultural monitors may be required during ground disturbing activities.

Endangered Species- No federally-listed threatened or endangered species are present on-site based on biological inventories and completion of protocol surveys for Coastal California Gnatcatcher (*Polioptila californica california*). Critical habitat for the Coastal California Gnatcatcher has been designated over the site and would be affected by the proposed action. The Corps has preliminarily determined that consultation with the U.S. Fish & Wildlife Service under section 7 of the Endangered Species Act is required for the proposed action.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required

Basic Project Purpose- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the applicant's project is water dependent (i.e., requires access or proximity to or siting within the special

aquatic site to fulfill its basic purpose). Establishment of the basic project purpose is necessary only when the proposed activity would discharge dredged or fill material into a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs). The basic project purpose for the proposed project is industrial development. The project is not water dependent.

Overall Project Purpose- The overall project purpose serves as the basis for the Corps' 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose for the proposed project is development of an industrial business park with large-scale pads, within the proximity of the City of Vista, City of Carlsbad, and City of San Marcos.

Additional Project Information

Baseline information- The applicant has proposed division of the approximately 17-acre Executive Ridge Industrial Project site with the purpose to develop an industrial office park consistent with the Vista Business Park Specific Plan. The proposed project would create pads and construct one street cul-de-sac for access off West San Marcos Boulevard. The site would be marketed as a build-to-suit site with flexibility in building size and layouts to accommodate large lot size suitable for specific business demands that are difficult to accommodate within the generally smaller sites available in the region. Between site grading, building construction and landscaping the site would be planted with a non-invasive seed mix and would include individual pad storm water basins for water quality protection and hydro-modification controls. The project also includes subsurface electrical, storm water, sewer, domestic water, and gas service infrastructure associated with the development.

Two steep ephemeral drainages cross the site from north to south. These drainages enter the site from small watersheds (approximately 3.2 acres for the eastern drainage and 1.6 acres for the western drainage) of the adjacent industrial development to the north. The drainages cross the site in a manner that divides the parcel into roughly thirds prior to reaching the West San Marcos Boulevard cut slope brow ditch collection system. The drainages comprise approximately 0.07 acre of non-wetland waters of the U.S. and 0.03 acre of wetland waters of the U.S. Because of the small watersheds of the two drainages and the use of infiltration swales and an infiltration pit Best Management Practices (BMP) on the developed pads that feed these drainages, the drainages rarely carry flows and drain out rapidly following any discharge. As a result, they do not support an aquatic community and also provide limited physical and chemical function and services, differing from surrounding upland.

The eastern drainage is well defined and originates off-site from a 24-inch storm drain culvert discharging from the adjacent business park complex. The culvert directs irrigation and rainwater run-off onto the project site. Two arroyo willow trees followed by approximately 25 feet of rip-rap dissipater apron are located at the northern portion of this drainage. The two willows persist at the end of the culvert as a result of irrigation run-off, as no further hydrophytic vegetation occurs downstream within the incised drainage. The drainage continues across the site within well-defined banks that range from one to four feet in width. Below the riprap, the drainage is unvegetated beneath a canopy of southern mixed chaparral. The drainage empties into a two-foot wide concrete-lined brow ditch which is conveyed to the east of the property, underneath West San Marcos Boulevard via a culvert, and eventually to the Pacific Ocean, via Batiquitos Lagoon. Development of the site would permanently impact the entire 910 linear feet of drainage on-site.

The western drainage is not as defined as the eastern drainage. The actual drainage starts approximately 50 feet downhill from the existing business park complex at the terminus of an 18-inch

storm drain culvert. At the upper end of the drainage it is unclear whether the one-foot wide drainage channel is caused by existing concentrated surface flow or if the drainage pattern exists as a result of prior discharges, now terminated by the development of the upslope area. Below its origin, the drainage then forms a more defined incised channel. Approximately halfway across the site, the drainage widens to six feet, after which all drainage patterns are lost. Water is ultimately collected in a two-foot wide concrete-lined brow ditch, which feeds into a concrete culvert draining under West San Marcos Boulevard and eventually leads to the Pacific Ocean, via Batiquitos Lagoon. Development of the site would permanently impact the entire 444 linear feet of this ephemeral drainage.

Because of the drainages being located fairly centrally on the site and sloping so steeply from north to south (nearly 100 foot drop in elevation), they would be substantially impacted by the proposed development. The proposed project would underground these drainages by connecting the storm drain culverts across the site. This system would tie into the storm drain system in the development to the north of the project site and would also tie into the storm drain system at West San Marcos Blvd, which feeds into the creek on the south side of the road. Detention basins and stormwater BMPs would also be constructed on each of the five build-to-suit development pads.

Project description- As indicated previously, the proposed action is the development of an approximately 17-acre property into industrial built-to-suit pads within 11.7 acres of the site. The remaining area on-site would consist of manufactured and natural slopes and a single cul-de-sac street off of West San Marcos Boulevard. The site would include a large amount of cut at the northern portion of the site and fill at the southern portion, due to the current steep gradient of the site. The graded, undeveloped pads would be constructed with temporary detention basins to meet water quality and hydro-modification requirements and hydroseeded with non-invasive, non-irrigated seed until the pads are completely developed. The two on-site drainages would be completely filled and connected to existing storm drains.

Applicant's Preliminary Alternatives Analysis - Because the two drainages cross the site in a manner that divides the site nearly into thirds and site sewering requires the lowest pad grades to be set at a fairly high elevation in order to drain to the available sewer connection at the Avenida Michelle cul de sac east of the site, the applicant has stated that it is not possible to step pads down in a manner that would avoid undergrounding of the drainages across the property while retaining a sizable pad. The applicant provided an alternative design illustrating what would be necessary to develop the entire site while conserving the drainage courses using walls and bridges. According to the applicant, the results of the design would be cost prohibitive with some walls achieving 40 feet or more in height and the resulting pads being unsuited in providing the flexibility in building layout desired to be market competitive. Further, the retaining walls, necessary to retain usable pad area, would leave the drainages tightly confined to narrow features through the site and as such would have limited function. As such, the applicant believes this alternative is not practicable given the excessive cost of the walls and the loss of marketability of the resulting pad configurations.

The applicant also considered an alternative that would avoid one of the drainages on-site and reduce the overall pad sizes. Under this alternative, the usable pad area would be reduced from the proposed size of 11.3 acres to 6.7 acres. According to the applicant, the unit cost of rough pad development would rise from $11.48/sf under the proposed project to $15.57/sf under the reduced drainage impact alternative because of reduced pad area and some fixed improvement costs, such as the access road and service utilities. This alternative would avoid impacting 0.03 acre of wetland waters of the U.S., consisting of two willow trees, 0.01 acre of non-wetland water in mixed chaparral, and 0.01 acre of jurisdictional concrete-lined brow ditch. A crossing of the conserved drainage and adjacent native upland would still be required to provide a sewer access road and sewer line utility connection to the east. The available pad area would be reduced to 59 percent of the applicant's

project area and the price per unit area would increase by 36 percent. According to the applicant, the smaller pad size of 6.7 acres is less flexible for perspective users and would limit the market by putting the site in direct competition with other smaller pad sites. The cost per usable area would further price the pad above the smaller lot comparable properties available in the region rendering it not viable for the applicant's intended purpose.

The applicant also considered an alternative that scaled back the pad size to retain some of the upland, while still impacting both drainages. The intent of this alternative is to preserve some of the large pad usability while reducing environmental impacts to upland areas which contain sensitive species. Due to fire codes and brush management zones, some of the avoided upland areas would still be impacted by required brush management areas. In addition, approximately 0.2 acre of the avoided upland areas would be required to be used for sewer line construction and a sewer access road. According to the applicant, the available pad area would be reduced by approximately 4.1 acres and would result in a nearly direct loss of 36 percent of the usable pad, reducing it down to approximately 7.2 acres in size. The smaller pad still exceeds the size of most vacant pads in the area and would have a slight market competitiveness advantage, but less than that of the 11.3-acre proposed project pad.

Proposed Mitigation - Water Quality: On-site storm water generation would be directed through temporary desilting basins prior to entering into the proposed storm drain systems. As pads are built out, the temporary desilting basins would be replaced with permanent BMPs for storm water filtering and flow discharge rate remediation.

The following measures have also been included within the project to minimize off-site direct and indirect impacts to waters of the U.S. (Executive Ridge Industrial (PC 3-182) Project Biological Impact Analysis Report, August 7, 2007, revised May 15):

- Standard pollution control BMP's shall be carried out during construction.
- Silt fencing or other sediment trapping devices shall be installed and maintained in order to prevent construction generated sediment from entering the natural drainage system.
- Landscaping shall not include invasive plants as listed by California Exotic Plant Pest Council (CalEPPC) as "exotic pest plants of greatest concern" (CalEPPC 1999). Irrigation and fertilizer shall be limited in its use.

Waters of the U.S.: The applicant has proposed mitigating impacts to waters of the U.S. at La Mirada Canyon Preserve in the City of Vista. The unnamed creek at the bottom of La Mirada Canyon currently occurs along the City of Vista sewer access, which is a raised road (five to six feet) immediately adjacent to the creek. This road limits the natural meandering of the creek and blocks natural runoff from neighboring areas from entering the creek. To mitigate the project, the applicant proposes to remove a portion of the existing containment berm in La Mirada Canyon, expanding the width of the natural creek. The removed material would be utilized to fill and raise the existing sewer access road. Culverts and stabilized dip sections would be placed in the elevated utility roadway to convey the drainage from the north side of the road to the creek located on the south side of the road. The widened creek would be expected to be less erosive and better support riparian habitat than the present confined drainage. The length of expanded creek width would be approximately 1,500 feet, slightly longer than the 1,394 foot length of drainages impacted.

Currently, the La Mirada Canyon Preserve is an established open space preserve in the City of Vista that supports existing upland and wetland mitigation lands and thus the mitigation use is compatible with the existing land uses and management objectives for the landscape. The upland areas impacted by the project are similarly being proposed for mitigation within La Mirada Canyon by conservation and enhancement of native uplands and funding long-term management. The habitats

within La Mirada Canyon that are to serve as mitigation were evaluated for biological equivalency with the habitat proposed to be impacted by the project. The mitigation lands were determined to be of equal or higher quality than the impacted habitats with respect to most biological resources, including being occupied by California gnatcatchers which are absent from the project site. One exception to the equivalency standard being met by La Mirada Canyon is the need to plant Nuttall's scrub oak in the mitigation area to offset losses on the project site. This has been required under the locally adopted CEQA document and project approval.

Proposed Special Conditions

Additional special conditions, including those relating to mitigation and the Endangered Species Act (ESA), will likely be included in the final permit

1) The Permittee shall submit final mitigation grading and planting plans for Corps approval prior to implementation of the mitigation.

2) Annual monitoring reports in accordance with the Habitat Mitigation and Monitoring Plan (HMMP) shall be submitted to the Corps Carlsbad Field Office clearly referencing Corps File No. SPL-2011-00669-RJV. Reports shall be submitted at the same time each year, with the first report coming one (1) year after mitigation installation. Annual reports are due for a minimum of five (5) years or as required until ALL performance standards have been met and the Corps Regulatory Division has provided written release via e-mail or letter.

3) Within 45 calendar days of complete installation of all mitigation, the Permittee shall submit to the Corps Regulatory Division two copies of a memo indicating the following:
   A. Date(s) all mitigation was installed and monitoring was initiated;
   B. Schedule for future mitigation monitoring, implementation and reporting pursuant to final, Corps-approved HMMP;
   C. Summary of compliance status with each special condition of this permit (including any non-compliance previously occurred or currently occurring and corrective actions taken to achieve compliance);
   D. Color photographs taken at the project site before and after construction for those aspects directly associated with impacts to waters of the U.S.; and
   E. One copy of "as built" drawings for the entire project, including all mitigation sites (all sheets must be signed, dated, to-scale, and no larger than 11 x 17 inches).

4) Prior to initiating construction in waters of the U.S., the Permittee shall post financial assurance(s) in a form approved by the Corps equal to the cost of mitigation design, installation, maintenance, monitoring, land acquisition costs, long-term management etc.

5) The Permittee shall record a deed restriction, in a form approved by the Corps Regulatory Division, which shall run with the land, obligating the Permittee, its successor and assigns to protect and maintain the mitigation area as natural open space in perpetuity. The deed restriction shall preclude establishment of fuel modification zones, paved public trails, drainage facilities, walls, maintenance access roads and/or future easements, except as provided in the Project Description (described herein). Further, to the extent practicable, any such facilities outside the deed restriction shall be sited to minimize indirect impacts on the avoided, created, restored and enhanced wetland and non-wetland waters of the U.S. Prior to its execution and within six months of issuance of this permit, the Permittee shall submit a draft deed restriction to the Corps Regulatory Division for review. The Permittee shall receive written approval (by letter or e-mail) from the Corps Regulatory Division of the deed restriction prior to it being executed and recorded. No later than 30 calendar days after receiving Corps Regulatory Division approval of the final draft

deed restriction, the deed restriction shall be executed and recorded, and a recorded copy furnished to the Corps Regulatory Division.

6) The Permittee must provide monies to a Corps Regulatory Division approved long-term open space manager prior to release of the on-site obligations. Monies must be in the form of non-wasting endowments [endowment amount to be determined by Property Analysis Record (PAR) or similar methodology] or other approved methodology for the purposes of fulfilling the long-term responsibilities including maintenance activities (i.e., weed removal, trash removal, repair and maintenance of fencing and signage, repair of vandalism or other trespassing disturbances, and restoration or management following flood or fire damage).

7) The Permittee shall notify the Corps Regulatory Division of the date of commencement of operations not less than fifteen (15) calendar days prior to commencing work and the date of completion of construction activities within forty five (45) days of project completion.

8) The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter preserved waters of the U.S. and riparian wetland/habitat areas. Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.

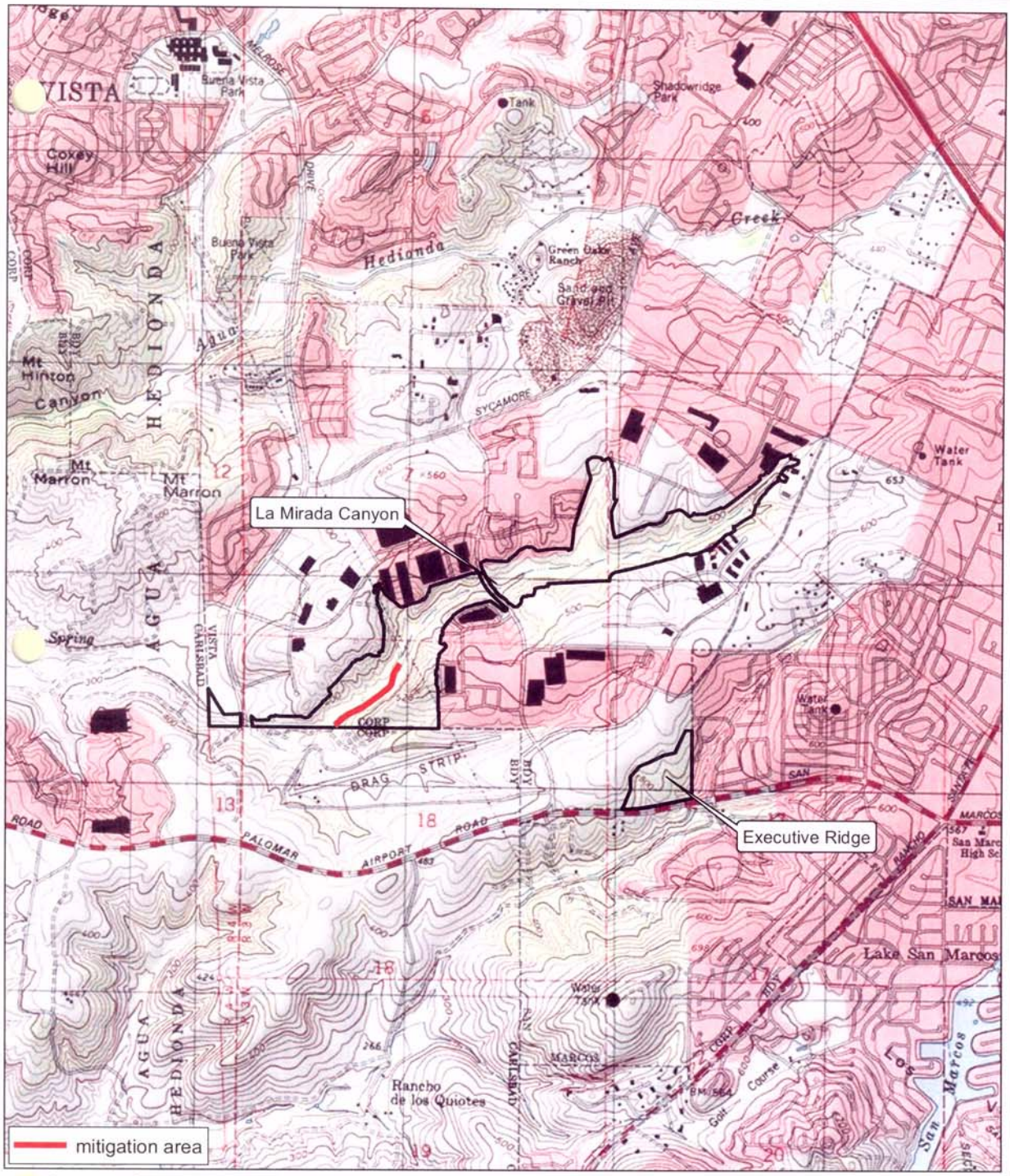
9) Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify the Corps' Archeology Staff within 24 hours (Steve Dibble, 213-452-3849 or John Killeen, 213-452-3861) and the Corps' Project Manager (R.J. Van Sant, 760-602-4837). The Permittee shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The Permittee shall not resume construction in the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. Section 800.13.

For additional information please contact R.J. Van Sant at Richard.J.Vansant@usace.army.mil or at 760-602-4837.This public notice is issued by the Chief, Regulatory Division.

Regulatory Program Goals:

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

M&A #09-028-02

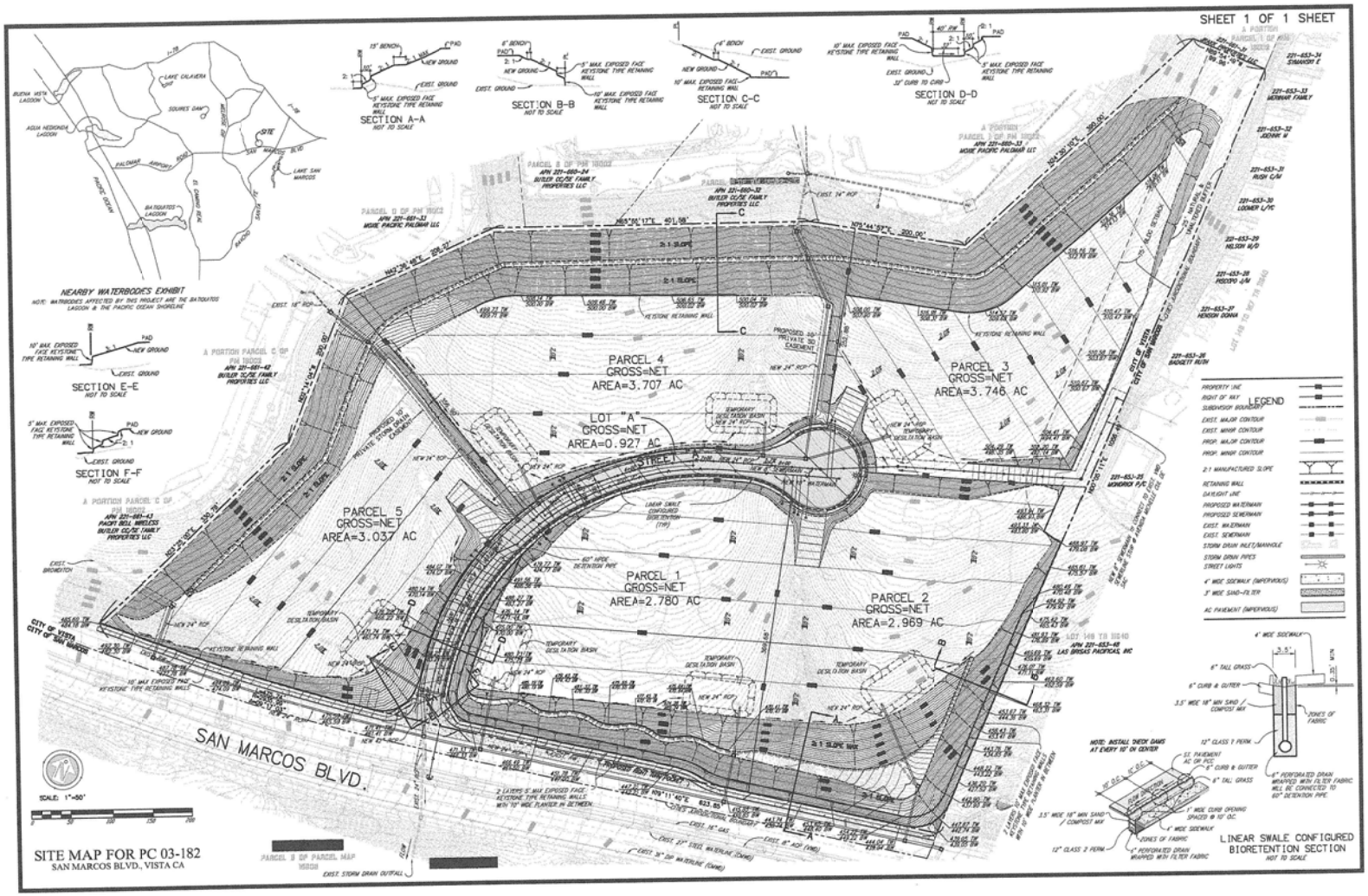


Project Vicinity Map

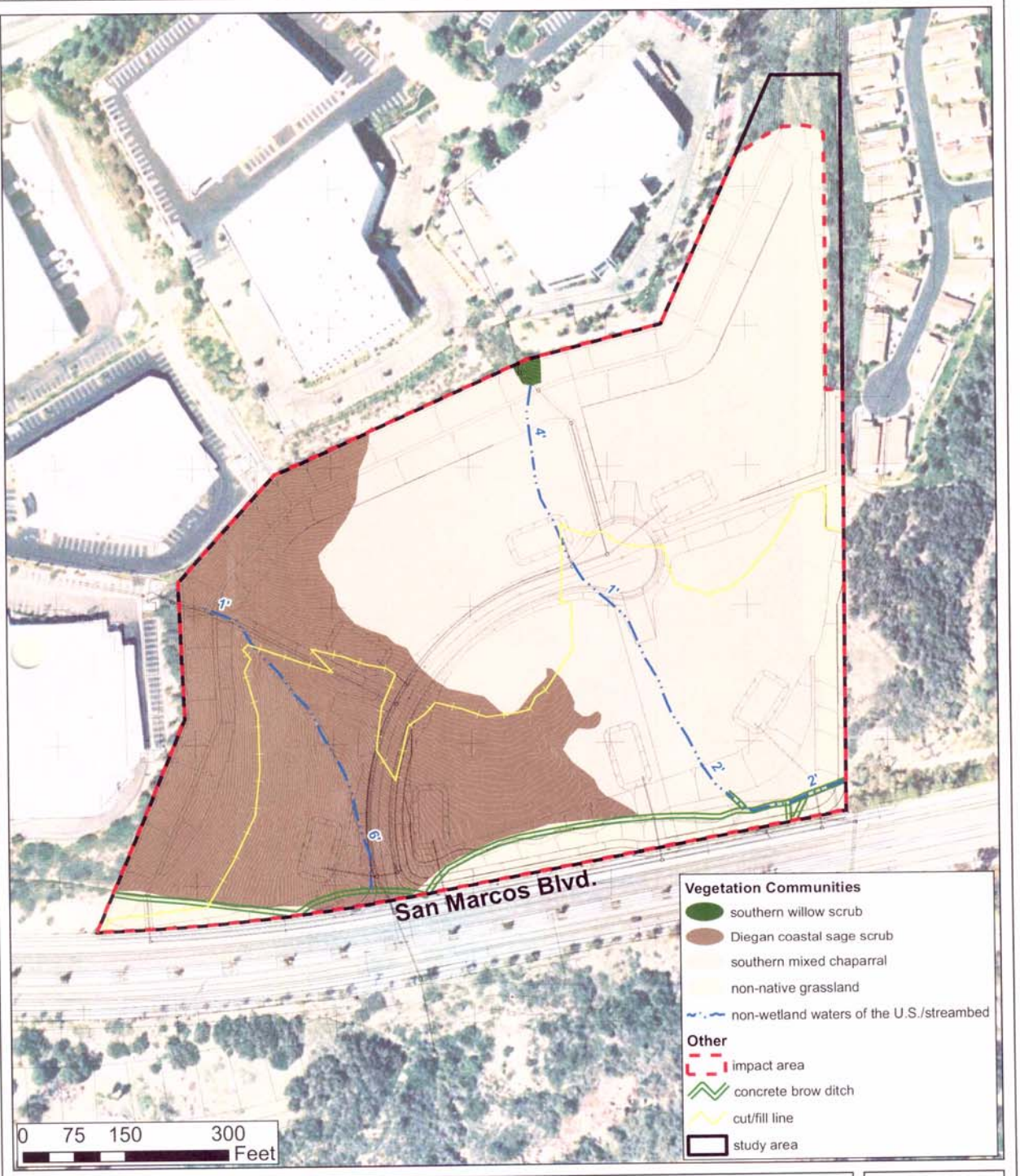
La Mirada Canyon Mitigation Area and
Executive Ridge Industrial
Source: USGS 7.5' San Marcos, CA Quadrangle

Figure 1

Merkel & Associates, Inc.


SHEET 1 OF 1 SHEET
NEARBY WATERBODIES EXHIBIT
SECTION A-A
SECTION B-B
SECTION C-C
SECTION D-D
SECTION E-E
SECTION F-F
PARCEL 1 GROSS=NET AREA=2.780 AC
PARCEL 2 GROSS=NET AREA=2.969 AC
PARCEL 3 GROSS=NET AREA=3.746 AC
PARCEL 4 GROSS=NET AREA=3.707 AC
PARCEL 5 GROSS=NET AREA=3.037 AC
LOT "A" GROSS=NET AREA=0.927 AC
SAN MARCOS BLVD.
LEGEND
SITE MAP FOR PC 03-182
SAN MARCOS BLVD., VISTA CA
LINEAR SWALE CONFIGURED BIORETENTION SECTION

M&A #09-028-02



Wetland Delineation and Biological Impacts Map

Executive Ridge Industrial Project

Figure 3

Merkel & Associates, Inc.