CITY OF HAYWARD

AGENDA REPORT

AGENDA DATE 04/16/02

AGENDA ITEM 3B

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Final Map Tract 7317 (Oliver West) - Standard Pacific Corporation of California, (Subdivider) - Approval of Final Map, Authorize the City Manager to Execute a Subdivision Agreement; Approve the Addendum to the Environmental Impact Report, and Associated Implementation Measures

RECOMMENDATION:

It is recommended that the City Council authorize the attached resolution that:

1. Approves the addendum to the Environmental Impact Report;
2. Approves the Final Map for Tract 7317 (Second final map of Vesting Tentative Map Tract 7065);
3. Finds the Final Map Tract 7317 (Oliver West) in substantial conformance with the tentative map and the revised conditions of approval thereof;
4. Authorizes the City Manager to execute the subdivision agreement covering the installation of required improvements under Final Map 7317; and
5. Accepts Eden Shores Drive, Dunne Circle, Isle Court, Sandwick Drive, Sea Haven Court, Shellgate Circle, and Sunset Dune Way into the City street system upon certification by the Director of Public Works that the required street improvements have been completed.

DISCUSSION:

The subject final map is for the first phase of residential development (109 parcels out of 526 parcels) on the land known as "Oliver West." Applications for subsequent final maps on Oliver West will follow as the housing is absorbed by the market. Minor technical modifications were made to the map and improvement plans, and an Addendum to the Environmental Impact Report (Exhibit A) was prepared by LSA Associates. The technical modifications include an engineering design change to the water buffer and preservation of wetlands rather than loss and replacement of wetlands offsite. The Addendum concludes that these changes are not substantial and will not result in any significant environmental effects under the California Environmental Quality Act. The City Council is asked to review and approve this document before taking action on the final map application.

Relative to this final map process for the first phase of Oliver West, the following matters are addressed.

- The wetlands areas identified on Oliver West in the Environmental Impact Report were anticipated to be filled and replaced off-site. However, final determination by the Corps of Engineers eliminated those areas as wetlands and identified five new seasonal wetland areas. The final map reveals that these seasonal wetlands will be preserved in place, which has resulted in the elimination of 12-lots and the reconfiguration of the 5-acre neighborhood park to incorporate one of the identified wetlands areas. As a result there is a net gain of 0.2 acre of park area and a reduction in lots from 538 to 526.

- A condition of approval of the Development Agreement states that the developer must "*Prepare a Habitat Mitigation Plan prior to the recordation of the first final map. The Plan mitigation measures shall be implemented as conditions of approval for the development.*" Accordingly, the developer provided a *"Consolidated Wetland/Habitat Mitigation Program and Native Lands Open Space Management Program"* prepared by Zentner and Zentner, a land planning and restoration firm. The program addresses preservation of some of the wetlands, restoration of other wetlands, and monitoring and performance standards. The report indicates that the responsibility for the maintenance of the preserved wetlands falls to the developer for a period of up to five years, or until the wetlands has been re-established to the satisfaction of responsible agencies. After that time, the responsibility for the maintenance of the wetlands will become that of the homeowners association. It is anticipated that the wetlands will be self-sustaining by that time and that maintenance will primarily be picking up litter and maintaining the fencing surrounding the wetlands. Copies of this document were provided to the U.S. Army Corps of Engineers as part of Standard Pacific's Nationwide 404 application for the construction of a bridge over the water barrier. The Corps typically circulates these documents for comment to the California Department of Fish and Game, U.S. Fish and Wildlife Service, and the Regional Water Quality Control Board (RWQCB). Only the RWQCB responded. The RWQCB requested that two conditions be added to the Mitigation Program, which has been done.

- The water buffer as envisioned in the tentative map is intended to prevent domestic animals and other predators often associated with development from accessing the adjacent protected habitat area. The supporting environmental documents anticipated that the buffer would be filled and drained by tidal action and connected to the flood control channel. This plan was later determined to be ineffective and an alternative system of recirculated and filtered water is being proposed. This technical change is discussed in the Addendum to the Environmental Impact Report. The City Engineer has reviewed the alternative proposal and believes that it will function more reliably and better serve its intended purpose of preventing domestic animals and other predators from accessing the adjacent protected habitat area. The estimated cost of constructing and maintaining the buffer has been substantiated by the City Engineer, and bonds have been provided to insure satisfactory construction. Funds for maintenance of the buffer will be provided by a buffer Maintenance Assessment District.

Prepared by:

Dyana Anderly, AICP
Planning Manager

Recommended by:

Sylvia Ehrenthal
Director of Community and Economic Development

Approved by:

Jesús Armas, City Manager

Attachments: Exhibit A: Addendum to EIR

Draft Resolutions

4/11/02

EXHIBIT A

ADDENDUM

SOUTH OF ROUTE 92 GENERAL PLAN AMENDMENT AND SPECIFIC PLAN - OLIVER ESTATE/WEBER PROPERTIES PROGRAM ENVIRONMENTAL IMPACT REPORT

SCH#95103079

Submitted to:

City of Hayward
Department of Community and Economic Development

Prepared by:

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Pt. Richmond, California 94801
(510) 236-6810

LSA Project No. SPN134

LSA

March 13, 2002

TABLE OF CONTENTS

Figures

1.0 INTRODUCTION

The City of Hayward was the lead agency for the South of 92 General Plan Amendment and Specific Plan - Oliver Estate/Weber Properties Program Final Environmental Impact Report (January 1998; SCH#9510307). Subsequent to EIR certification, certain changes have occurred to the Project design within the Oliver West unit of the Specific Plan Area. The City has determined that the changes are not substantial but rather constitute minor technical changes that do not warrant preparation of a subsequent or supplemental EIR, pursuant to the conditions contained in Sections 15162 and 15164 of the California Environmental Quality Act. The City's determination is based on the evidence contained below in Section 2.0 of this EIR Addendum. This evidence demonstrates that the Project changes comply with the following requirements of Section 15162 of CEQA:

1) Substantial changes are not proposed to the Project, nor will the changes require major revisions to the previous EIR;

2) Substantial changes with respect to the circumstances under which the Project is undertaken have not occurred;

3) New information, upon which the proposed changes are based, will not result in any of the following:

   (A) significant environmental effects, not already discussed in the EIR;
   (B) substantial increases in the severity of previously identified effects;
   (C) the feasibility of mitigation measures or alternatives previously found to be infeasible;
   (D) the need for mitigation measures or alternatives considerably different from those analyzed in the EIR;

2.0 REVISIONS TO ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES

2.1 Wetland Avoidance

Subsequent to EIR certification, the U.S. Army Corps of Engineers made an official wetland determination on the Oliver West property. Under this determination, the Corps found that 0.08 acre of jurisdictional seasonal wetlands occur in five isolated locations within the Oliver West property, as shown on Figure 1 and described in the Oliver West wetland delineation report (LSA Associates 2001a). These wetlands were not identified in the EIR. The Oliver West development plan has been revised to fully avoid these five wetland areas (Zentner and Zenter 2001). Therefore, no additional impacts to jurisdictional wetlands will occur. However, this avoidance necessitated small reductions and changes in the Oliver West development area. These are summarized below.

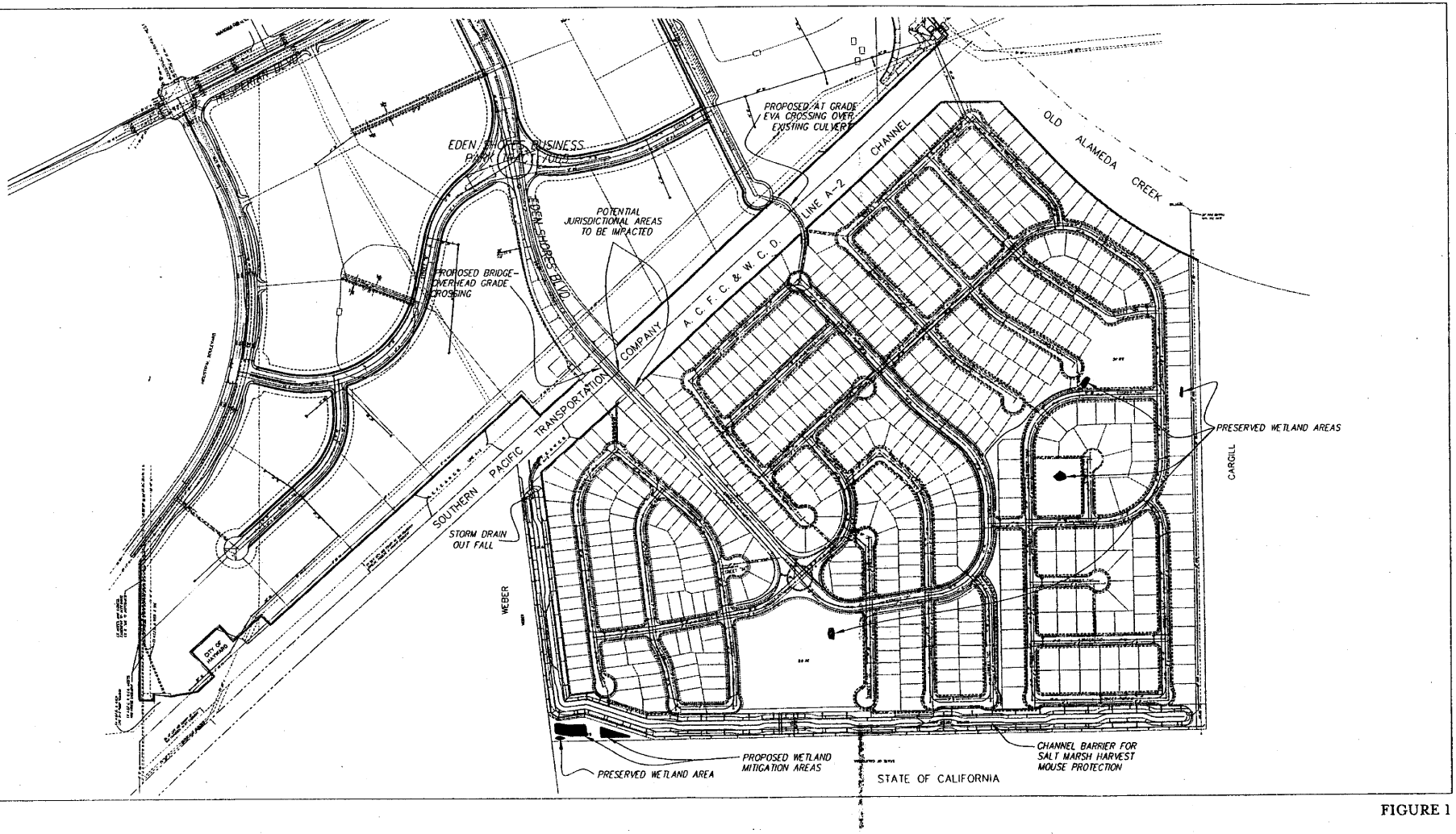
The proposed 5-acre Community Park in Lot "C" has been modified to include a 0.4-acre wetland preservation zone (Figures 2 and 3). Similarly, a 0.3-acre wetland preservation zone will be established in the proposed 2.5-acre Neighborhood Park in Lot "I" (Figures 3 and 4). Each wetland preservation zone will consist of shallow (1-4 inches in depth) seasonal wetlands that will be vegetatively enhanced, protected by buffer zones, and landscaped with native trees, shrubs and groundcover (Figures 2-4).

In order to maintain the same or greater area of Community Park as reviewed under the EIR, a total of three lots adjacent to the Community Park were eliminated from the site plans and replaced by additional parkland. This change resulted in an increase in the size of the Community Park to approximately 5.6 acres, of which 5.2 acres will be parkland available to the public.

Two new wetland preservation zones, with essentially the same designs as the park wetland zones, will also be established within the residential areas in the vicinity of the neighborhood park (Figures 2 and 4). This will necessitate the elimination of nine residential lots but will not require any changes to street or subdivision layout.

The establishment of wetland preservation zones does not constitute a substantial change to the Project and is fully consistent with the requirements of Section 15162 of CEQA for the following reasons:

- The wetland preservation zones will not require significant modifications to the Project or changes with respect to the circumstances under which the Project is undertaken. The wetland preservation zones in the parks will constitute natural amenities fully compatible with the open space recreational usage intended for the parks. The zones will require only minor modifications of the internal park designs that will not reduce or modify other park amenities such as tennis courts, playgrounds and trails (Figures 2-4). The wetland preservation zones will cause only a very small reduction in the number of residential lots (12 lots out of a total of 545 lots originally proposed). No changes will be required to any other aspects of the Oliver West unit of the Project. *§15162(a)(1)(2)*
- The wetland preservation zones will fully avoid significant environmental effects (loss of 0.08 acres of jurisdictional wetlands on the Oliver West property) not previously discussed in the EIR. *§15162(a)(3)(A)*



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WETLAND

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SOURCE: RUGGERI-JENSEN-AZAR AND ASSOCIATES, AUGUST 2001

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FIGURE 1

Oliver West

EIR Addendum
South of 92 General Plan
Amendment and Specific Plan
Revised Oliver West Project Plan

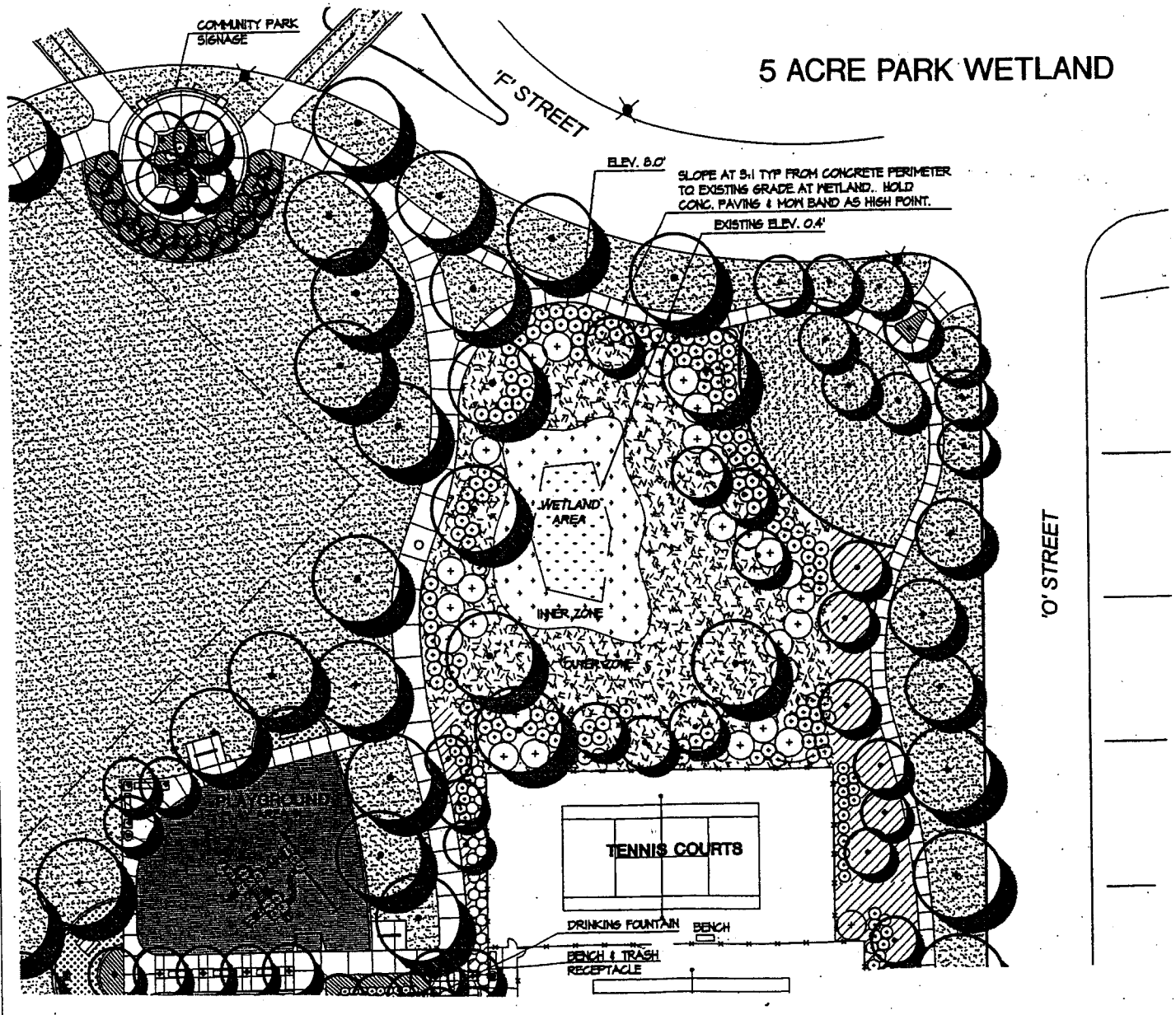

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FIGURE 2

Oliver West

EIR Addendum South of 92
Community Park Wetland
Preservation Zone

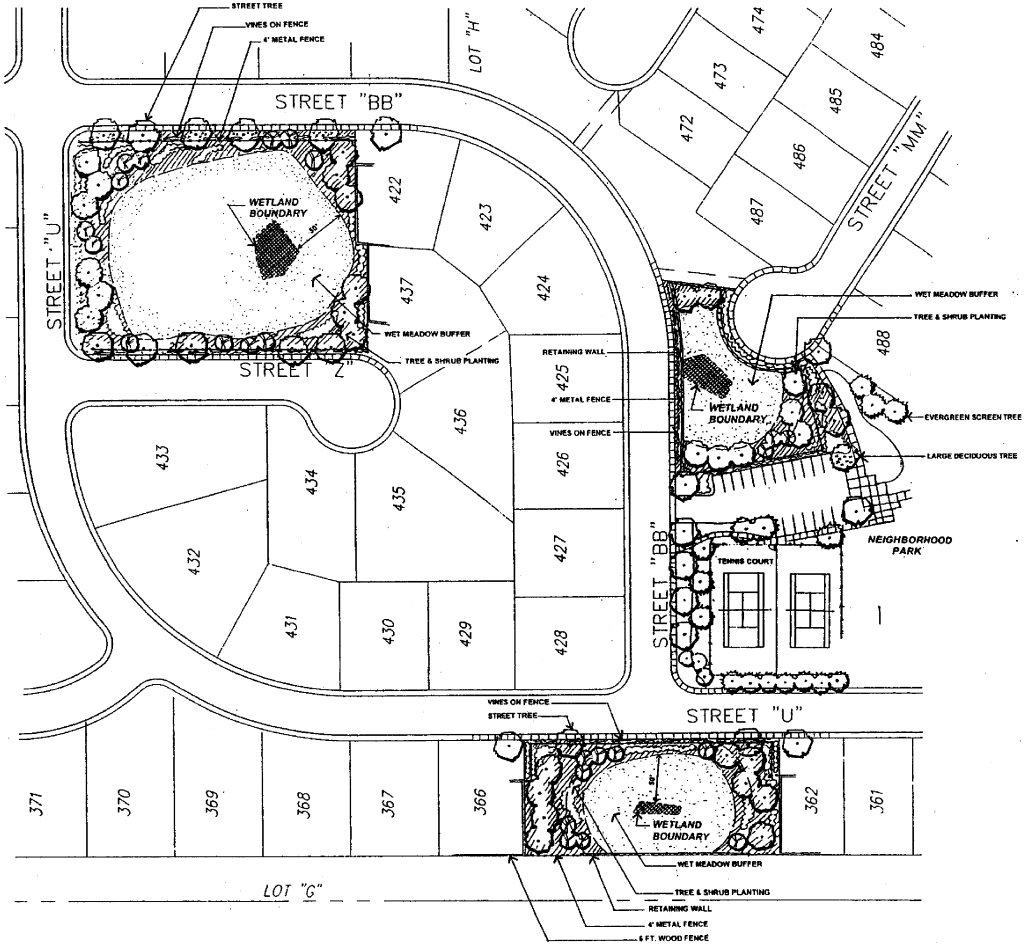

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FIGURE 3

Oliver West

Wetland Preservation Zone in and Near the Neighborhood Park

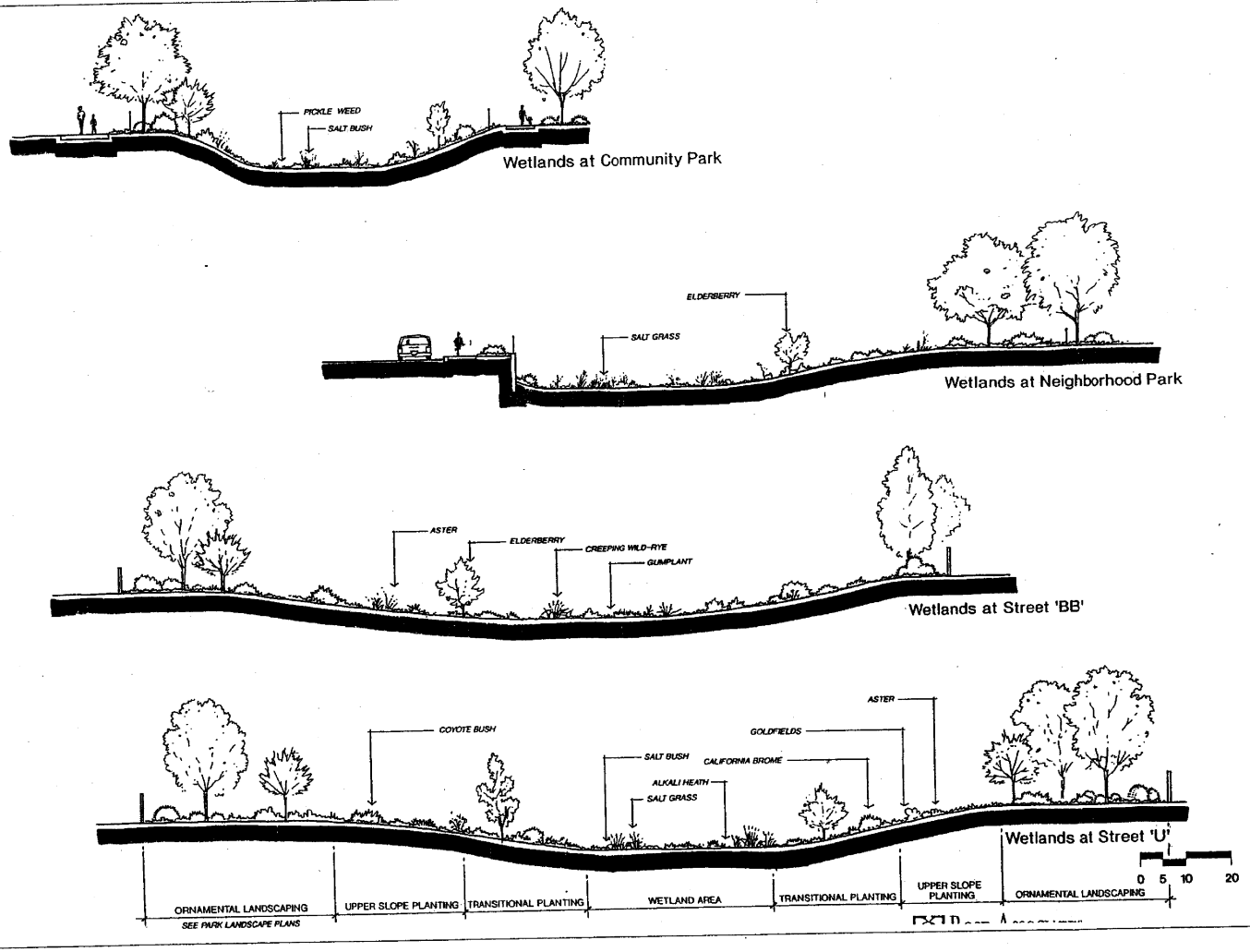

FIGURE 4

LSA

Oliver West
Wetland Preservation Zones
Cross Sections

- By preserving and enhancing the seasonal wetlands, there will be no increase in the severity of previously identified effects. *§15162(a)(3)(B)*
- The establishment of wetland preservation zones constitutes an avoidance action and therefore will not require new mitigation, nor will it require mitigation previously discussed but rejected in the EIR. *§15162(a)(3)(C)(D)*

2.2 Wetland Impacts

Three Corps of Engineers wetland determinations were made after EIR certification. These wetland determinations were the following:

- July 31, 2000 Oliver East property wetland determination (Corps of Engineers, 2000);
- March 28, 2001 Oliver West property wetland determination (Corps of Engineers, 2001);
- Oliver West-Eden Shores Boulevard bridge crossing of the A-2 channel wetland determination made as part of a Corps Nationwide Permit authorization (LSA Associates, 2001b).

These determinations resulted in a change to the extent of impacts to Corps of Engineers jurisdictional and non-jurisdictional wetlands identified in the EIR. The EIR states:

> *Impact 3.2.3-3*
> *Development of the Oliver property (East and West) would result in the loss of 0.03 acres of jurisdictional wetlands and an additional 0.33 acres of non-jurisdictional freshwater marshes.*

Impact 3.2.3-3 is no longer accurate because it overstates the actual extent of impact to both jurisdictional and non-jurisdictional wetlands. The EIR identified 0.48 acres of "jurisdictional wetlands" within irrigation channels along the western boundary of the Oliver West tract, of which 0.03 acres would be impacted. These channels were assumed by the EIR to be Corps of Engineers jurisdictional because they occur within the former San Francisco Bay shoreline (see Figure 3.2.3-1 of the EIR). This 0.48-acre area was subsequently determined by the Corp of Engineers to be non-jurisdictional (Corps of Engineers 2001, LSA Associates 2001a).

The 0.33 acres of "non-jurisdictional wetlands," mentioned in Impact 3.2.3-3, includes irrigation channel habitat on the Oliver East property, (Figure 3.2.3-1 of the EIR). The Corps of Engineers subsequently found that 0.22 acres of irrigation channel are in fact Section 404 jurisdictional (Corps of Engineers 2000). These wetlands will be impacted by the Oliver East unit of the Project.

The 0.33 acres of "non-jurisdictional wetlands," also included marsh habitat that occurs largely along the A-2 channel on the eastern edge of the Oliver West property (see Figure 3.2.3-1 of the EIR). A small segment of the Oliver West wetlands (approximately 1,550 square feet), in the vicinity of the Eden Shores Blvd. bridge crossing, was subsequently determined by the Corps to be Section 404 jurisdictional (LSA 2001b). However only 100 square feet (<0.003 acre) will be lost as a result of bridge construction.

Based on the above-stated facts, Impact 3.2.3-3 should be revised to state as follows:

> *Impact 3.2.3-3*
> *Development of the Oliver property (East and West) would result in the loss of approximately 0.22 acres of jurisdictional wetlands and 0.03 acres of non-jurisdictional wetlands.*

This change in wetland impacts does not constitute a substantial change to the Project and is fully consistent with the requirements of Section 15162 of CEQA for the following reasons:

- There will be a net decrease in the overall extent of wetland impact from 0.36 acres identified in the EIR to 0.25 acres under the current proposed plans for the Oliver East and West properties. These changes in the wetland impacts do not result from or require any modifications to the Project. *§15162(a)(1)(2)*
- There will be a net decrease in the extent of significant environmental effects with regard to wetlands, as well as a net decrease in the severity of previously identified effects. *§15162(a)(3)(A)(B)*
- Mitigation actions previously identified in the EIR remain unchanged (see Mitigation Measure 3.2.3-3). *§15162(a)(3)(C)(D)*

2.3 Buffer Zone Channel Changes

Mitigation Measure 3.2.3-4 entails the establishment of a 100-foot wide buffer zone, including a permanently inundated tidal channel, between the residential areas of the Oliver West property and the adjacent habitat in State of California Wildlife Conservation Board lands to the north and west. The revised development plans for the property continue to include the 100-foot buffer. However the buffer design has been changed to address concerns over the buffer's reliability and long-term maintainability raised in the Final EIR by the Hayward Area Shoreline Planning Agency Citizens Advisory Committee and by the U.S. Fish and Wildlife Service.

The primary concerns raised by these commenting parties were the following:

1. The tidal channel would not persist over time;
2. The tidal channel may create endangered species habitat within the buffer, which may not be effectively buffered from the adjacent Oliver West development;
3. The tidal channel may function to dewater diked wetlands on the Baumberg Tract adjacent to the Oliver West property.

As part of the City of Hayward's Conditions of Approval for the Oliver West development, the developer was required to demonstrate that the buffer is constructed in a manner that is consistent with the EIR, and would be maintainable over time. In compliance with this condition, the developer commissioned engineering and hydrological studies by Todd Engineers, Inc., which resulted in the modified design described below and discussed in detail in the *Buffer Zone Channel Operations and Maintenance Manual* (Todd Engineers 2002).

The primary change is that the buffer is now proposed to contain a closed channel system having no connection to Old Alameda Creek, rather than a flow-through system. Water supply will be obtained from a groundwater well recently constructed on the property. Supplemental water will be obtained from an irrigation system (municipal water). The previous design, discussed in the EIR, allowed the channel to be filled with saline surface water from Old Alameda Creek by natural tidal action. The channel was to have been connected to the creek via culvert pipes at the southern end of the channel, and to the Line A drainage ditch at the northern end of the channel. Gates were to be used to maintain minimum depths of water in the channel.

This revised buffer channel design will have several advantages over the previous flow-through system. These are summarized below:

Long-term Maintenance. The closed channel system will promote long-term maintenance by avoiding the inflow of tidal water with its associated detritus, sediments, silt and nutrients. The use of well and City water, largely devoid of these constituents, will reduce the potential for maintenance problems to develop. Water quality will also be maintained through a water treatment system that will include aeration modules to inhibit plant and algal growth and aid water circulation, as well as aquatic plant shelves along the channel perimeter. Water will be pumped from the channel bottom into the planters, allowing plants to uptake nutrients from the water to help reduce the growth of algae. Skimmers will be located at each end of the channel to remove debris and plant matter floating on the water surface.

Avoidance of the Creation of Habitat in the Buffer. The revised buffer design will reduce the potential for wetland habitat to develop within the buffer. The well and City water that will supply the channel will be devoid of the biological constituents (*e.g.*, seeds, eggs, micro-algae, invertebrates) typically associated with tidal waters. Additionally, the buffer channel will have a soil cement-lined bottom and concrete sideslopes. This combination of an unsuitable substrate for plant colonization, and a water source devoid of colonizing organisms and seeds, will limit opportunities for habitat development.

Avoidance of De-watering of Adjacent Wetlands. The revised design will ensure that the buffer channel will not de-water adjacent wetlands of the Baumberg Tract for two reasons. First, the channel bottom will now be at an elevation of +2.5 feet, rather than -3.0 feet, as originally proposed. This means that the channel bottom will be higher than adjacent wetlands of the Baumberg Tract, and therefore cannot act as a sink for surrounding water. Second, the use of irrigation and City water will eliminate the need to divert tidal waters from adjacent wetlands.

The changes to the buffer zone channel design do not constitute a substantial change to the Project and is fully consistent with the requirements of Section 15162 of CEQA for the following reasons:

- The buffer channel changes will not require significant modifications to the Project. The only modifications will be to the internal design of the channel for the purposes of filling and maintaining it. *§15162(a)(1)*
- The buffer channel design changes will not cause any significant environmental effects not previously discussed in the EIR, nor will there be an increase in the severity of previously identified effects. The withdrawal of groundwater via the well will not cause any effects to potable water supplies. The groundwater to be pumped will be from a thin segment of an aquifer that is not correlated (connected) to identified potable water aquifers.

Groundwater pumping will not result in water quality problems in the buffer channel. The quality of the groundwater is generally comparable with potable water, although the total dissolved solids (320 ppm) and turbidity (12 NTV) are higher then the irrigation water to be used as a supplemental supply. Groundwater sampling on the Oliver West property did not identify any pollutants (Henshaw Associates 1998).

The groundwater pumping will not induce migration of groundwater from off-site. The volume of water that will be needed to replenish evaporation losses from the buffer channel will be approximately 20 gallons per minute. This is a relatively low flow rate and is not sufficient to induce groundwater migration.

The use of groundwater for replenishment of the buffer channel,, will actually reduce the amount of groundwater withdrawal that historically occurred on the Oliver West property. The property was regularly irrigated for the production of hay and other crops. The cultivated area is estimated to have been about 100 acres. Based on an application rate of one acre-foot of water per year, an annual usage of 100 acre-feet of water would have normally occurred. The annual buffer channel withdrawals represent only a third of this prior agricultural consumption.

Stagnation in the buffer channel will be prevented by inducing water circulation through pumping in the water treatment facilities, including aeration modules, aquatic plant shelves and skimmers. Wind and rain are also expected to cause water movement in the open water system and thereby reduce stagnation.

The average water replenishment rate of the buffer channel will be 20 gallons/minute to be supplied from both the groundwater well and the irrigation system. However, even if all the water were derived exclusively from City irrigation water, the impact on the municipal water supply would be negligible. The replenishment rate equates to an annual volume of 32 acre-feet per year, which is equivalent to the average water use of 32 families, based on one acre-feet per year per single family residence. *§15162(a)(3)(A)(B)*

- The buffer channel changes are fully consistent with mitigation previously identified in the EIR (Mitigation Measure 3.2.3-4). There will be no need for new mitigation actions nor there be a need for mitigation actions previously discussed but rejected in the EIR. *§15162(a)(2)(3)(C)(D)*

3.0 CONCLUSIONS

Based on the evidence provided in Section 2.0 of this EIR Addendum, the changes described in Section 2.0 to the South of 92 General Plan Amendment and Specific Plan - Oliver Estate/Weber Properties Program Final Environmental Impact Report are determined to be minor technical changes that meet the conditions of Section 15162 of CEQA. Therefore, preparation of a subsequent or amended EIR is not required.

4.0 REFERENCES

Henshaw Associates, Inc. 1998. Soil and Groundwater Quality Investigation, Oliver Property, 28905 Hesperian Boulevard, Hayward, California.

LSA Associates, Inc. 2001a. Assessment of the Extent of Wetlands on Oliver West Project Site in Hayward, California (Corps File No. 24156S). Dated February 2, 2001. Prepared for Oliver Estate and Trust.

LSA Associates, Inc. 2001b. Pre-construction Notification for Bridge Crossing - Oliver West Project, Hayward, Alameda County, California (Nationwide Permits 14 and 33). Dated September 28, 2001. ATTACHMENT B: Wetland Delineation Map and Data Sheets - A-2 Channel.

Zentner and Zenter, Inc. 2001. Mt. Eden Residential Community (Oliver West) Hayward, Alameda County, CA. - Consolidated Wetland/Habitat Mitigation Program and Native Lands Open Space Management Program (Project No. 706DUC). Dated December 15, 2001. Prepared for Standard Pacific Homes, Inc.

Todd Engineers, Inc. 2002. Buffer Zone Channel Operations and Maintenance Manual. Eden Shores Community, Hayward, California. Dated February 8, 2002. Prepared for Standard Pacific Homes.

U.S. Army Corps of Engineers. 2000. Letter from the San Francisco District, Corps of Engineers, dated July 31, 2001 (Corps File No. 24156S).

U.S. Army Corps of Engineers. 2001. Letter to LSA Associates, Inc. from San Francisco District, Corps of Engineers, dated March 8, 2001 (Corps File N0. 24156S)

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

4/11/02

RESOLUTION APPROVING ADDENDUM TO ENVIRONMENTAL IMPACT REPORT AND APPROVING FINAL MAP FOR TRACT 7317 AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT AND ACCEPTING CERTAIN STREETS INTO THE CITY STREET SYSTEM

WHEREAS, Vesting Tentative Map Tract 7065 for the project known as South of 92 was approved by the City Council on September 21, 1999; and

WHEREAS, there has been presented to the City Council of the City of Hayward, Final Map Tract 7317 for Vesting Tentative Map Tract 7065, for the first phase of the residential development of the Oliver West portion of the South of 92 project, which includes the development of 109 parcels out of 526 parcels; and

WHEREAS, an Environmental Impact Report was previously prepared and certified for the South of 92 project, including both the Oliver East and Oliver West properties; and

WHEREAS, several minor modifications have been made to Vesting Tentative Map Tract 7065, including an engineering design change to the water buffer and the preservation of wetlands, for which an Addendum to the Environmental Impact Report has been prepared; and

WHEREAS, the Addendum to the EIR determines that these changes are not substantial and will not cause any significant environmental effects within the meaning of the California Environmental Quality Act; and

WHEREAS, the Director of Community and Economic Development and Director of Public Works recommend approval of the Addendum to the EIR and of Final Map Tract 7317, including the proposed modifications to the design of the buffer zone and the preservation of the wetlands areas;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward does hereby find that the proposed changes to Vesting Tentative Map Tract 7065 are not substantial and will not have any significant environmental effects and does hereby approve the Addendum to the Environmental Impact Report.

BE IT FURTHER RESOLVED, that the City Council of the City of Hayward does hereby find that Final Map Tract 7317 is in substantial conformance with Vesting Tentative Map 7065, as modified, and does hereby approve Final Map Tract 7317, subject to the condition that the subdivider enter into an agreement for the construction of improvements and other obligations required as a condition of approval of the Vesting Tentative Map for Tract 7065 and that approval shall not be effective until and unless such agreement is entered into.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized for and on behalf of the City of Hayward to negotiate and execute a subdivision agreement in a form approved by the City Attorney, and to execute any and all documents necessary to complete the transfer of those portions of Tract 7317 property which will be dedicated to or acquired by the City.

BE IT FURTHER RESOLVED that the City Council shall hereby accept Eden Shores Drive, Dunne Circle, Isle Court, Sandwick Drive, Sea Haven Court, Shellgate Circle, and Sunset Dune Way into the street system of the City of Hayward upon certification by the Director of Public Works of satisfactory completion of the street improvements in substantial conformance with the approved plans.

IN COUNCIL, HAYWARD, CALIFORNIA _____ , 2002

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:_____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward