



Agenda Report

June 1, 2015

TO: Honorable Mayor and City Council

FROM: Planning & Community Development Department

SUBJECT: **APPEAL OF BOARD OF ZONING APPEALS DECISION: CONDITIONAL USE PERMIT #6222, TO ALLOW THE REPAIR AND REPLACEMENT OF FACILITIES WITHIN THE ARROYO SECO CANYON AREA THAT WERE DAMAGED OR DESTROYED BY THE STATION FIRE-RELATED EVENTS OF 2009; AND ADOPT A MITIGATED NEGATIVE DECLARATION, AT 3420, 3500, 4401 AND 4500 ARROYO SECO ROAD (ARROYO SECO CANYON PROJECT)**

RECOMMENDATION:

It is recommended that the City Council take the following actions:

1. Adopt a determination that the Initial Study environmental checklist prepared for the project by BonTerra Psomas is in compliance with the California Environmental Quality Act (CEQA). The Initial Study determined there could be significant impacts related to Cultural Resources, Hazards and Hazardous Materials, Noise, Transportation, Biological Resources, and Recreation but through the incorporation of mitigation measures, these impacts would be reduced to less than significant levels. Impacts to all other study areas were found to be less than significant. A Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program have therefore been prepared for the project; and
2. Adopt the findings in Attachment A and conditions of approval in Attachment B to approve the Conditional Use Permit to allow the repair and replacement of facilities within the Arroyo Seco Canyon Area that were damaged or destroyed by Station Fire-related events of 2009. The proposed improvements would allow for, among other things, increased utilization of surface water rights held by the City. A Conditional Use Permit is required for any parkland and recreational improvements within the OS Zoning District.

EXECUTIVE SUMMARY:

On March 13, 2015, the appellants, Spirit of the Sage, Project Soliton, and Hugh Bowles, submitted a Request for Appeal of the Board of Zoning Appeal's March 4, 2015 decision to approve Conditional Use Permit #6222 and the adoption of a Mitigated Negative Declaration at 3420, 3500, 4401 and 4500 Arroyo Seco Road (Arroyo Seco Canyon Area). The approval will allow multiple improvements within the Arroyo Seco Canyon Area which were damaged during the Station Fire-related events of 2009, among other things. In their appeal, the appellant cites that the CEQA determination made is inadequate, that the Conditional Use Permit for development in the Open Space zone is inappropriate and that the grant money being utilized for the project are being used incorrectly.

Staff recommends that the City Council uphold the Board of Zoning Appeals March 4, 2015 decision to approve Conditional Use Permit #6222.

BACKGROUND:

On July 31, 2014, the applicant, the City of Pasadena's Department of Water and Power submitted a Conditional Use Permit Application to allow the proposed improvements discussed herein. The proposed improvements are intended to allow the increased utilization of surface water rights held by the City, as well as improve water quality in the canyon; improve biological habitats; restore hydrological function and fish passage; and improve ecosystem health through multiple enhancements that are to be discussed shortly. In addition to the improvements, a total of 17 protected trees are proposed to be removed in order to accommodate the proposed improvements. This action was considered and approved by the Urban Forestry Committee at its regular monthly meeting which took place on November 12, 2014.

As part of the project, an Initial Study was prepared for the project to determine if there will be any environmental impacts. The Initial Study was prepared by BonTerra Psomas in compliance with the California Environmental Quality Act (CEQA). The Initial Study and proposed Mitigated Negative Declaration were made available for public review and comment from October 9, 2014 through November 8, 2014. Notices pertaining to the availability of this document were sent to residents within a radius of 500 feet from the boundaries of the project site, as well as state and federal agencies. The Initial Study determined there could be significant impacts related to Cultural Resources, Hazards and Hazardous Materials, Noise, Transportation, Biological Resources, and Recreation but through mitigation measures, the impacts would be reduced to less than significant levels. To address project concerns from various agencies as well as members of the public, staff prepared written responses to comments that were presented to both the Hearing Officer as well as the Board of Zoning Appeals for consideration along with the recommendation on the Conditional Use Permit.

On January 7, 2015, the Hearing Officer held a public hearing regarding the requested Conditional Use Permit. After carefully considering information from the applicant and

public testimony on the proposed application, the Hearing Officer made the findings to approve Conditional Use Permit #6222 and adopted the environmental determination of a Mitigated Negative Declaration, along with a Mitigation Monitoring Plan (MMRP).

Following the hearing, on Tuesday, January 20, 2015, Spirit of Sage Council, Project Soliton, and Hugh Bowles submitted to the Pasadena Planning and Community Development Department an appeal of the Hearing Officer's decision to approve Conditional Use Permit #6222 and the associated environmental determination to the Board of Zoning Appeals. The appellant stated that the proposed Mitigated Negative Declaration did not adequately address the environmental impacts that will result from the proposed project.

A public hearing with the Board of Zoning Appeals took place on March 4, 2015, to consider the appeal. The Board listened to a staff presentation and considered public testimony on the requested Conditional Use Permit. Specifically, the request will allow improvements intended to increase utilization of surface water rights held by the City, improve water quality in the Arroyo Seco Canyon; improve biological habitats; restore hydrological function and fish passage; and improve ecosystem health through the following enhancements: 1) naturalize the Arroyo Seco streambed; 2) remove exposed portions of existing infrastructure designed for sediment removal; 3) restore and improve the intake facilities; 4) expand recharge operations by creating additional spreading basins; 5) reduced barriers to fish passage; 6) enhance recreational facilities; 7) build a new restroom facility; and 8) improve storm water quality through a smaller decomposed granite parking lot.

Two members of the appellant team cited concerns related to the preparation of the Mitigated Negative Declaration that addressed the environmental impacts that may result from the project. The appellants requested that an alternative environmental analysis be done, as well as the preparation of an environmental impact report (EIR). In addition, the appellants cited concerns related to the City's proposal to maximize full utilization of its water rights.

Staff informed the Board of Zoning Appeals that the proposed Mitigated Negative Declaration was generated with the necessary supporting technical analysis, and reminded the Board of Zoning Appeals that an alternative analysis is not required when preparing a Mitigated Negative Declaration. In regards to the water rights issue, information was provided to inform the Board that the improvements will allow Pasadena Water and Power to utilize its pre-1914 water rights. Speakers in support of the project discussed how the proposed project will be a valuable asset to the immediate area. At the conclusion of testimony, The Board upheld the Hearing Officer's January 7, 2015 decision and approved Conditional Use Permit #6222 by a unanimous vote of 4-0, with one absence.

ANALYSIS:

Project Description

The City of Pasadena Water and Power Department submitted a Conditional Use Permit to allow multiple improvements within the Arroyo Seco Canyon Area. This project is primarily a water resource protection project. The proposed project is intended to allow the repair and replacement of facilities within the Arroyo Seco Canyon Area that were damaged or destroyed by the Station Fire-related events of 2009. The improvements are also intended to allow the increased utilization of surface water rights held by the City, and will improve water quality in the canyon; improve biological habitats; restore hydrological function and fish passage; and improve ecosystem health through the following enhancements: 1) Naturalize the Arroyo Seco streambed; 2) Remove exposed portions of existing infrastructure designed for sediment removal; 3) Restore and improve the intake facilities; 4) Expand recharge operations by creating additional spreading basins; 5) Reduced barriers to fish passage; 6) Enhance recreational facilities; 7) Build a new restroom facility; and 8) Improve storm water quality through a smaller decomposed granite parking lot.

A Conditional Use Permit is required for any parkland and recreational improvements within the OS Zoning District. In addition to the improvements, a total of 17 protected trees are proposed to be removed in order to accommodate the proposed improvements. The Conditional Use Permit process allows the City to review the project to determine if the proposed improvements will be compatible with the surrounding uses and require that the proposal adhere to specific conditions related to construction, operation, appearance, etc. In order to approve the Conditional Use Permit, six specific findings must be made in the affirmative. These findings relate to the project meeting the intent and purpose of its Zoning District and the Zoning Code.

Project Purpose

The Station Fire burned a total of 161,189 acres (or nearly 252 square miles) of the Angeles National Forest in 2009. The fire burned vegetation and soils on steep side slopes within the Los Angeles River, San Gabriel River, Mojave River, and Santa Clara River Watersheds. This led to substantial erosion, debris flows, and flooding during subsequent winter storm seasons and summer storm events. Pasadena Water and Power (PWP) diverts and spreads the City's surface water rights through facilities in and near the Arroyo Seco. These facilities were damaged and the streambed was radically altered by accumulated sediment due to the major debris flows following the Station Fire. It is estimated that over one million cubic yards of sediment accumulated behind the Devil's Gate Dam during the storms, which passed through the PWP's Headworks and diversion structures.

The Project is necessary to restore PWP's ability to divert the City's water rights within the Arroyo Seco, thereby diversifying and making more reliable the City's water supplies in a time of unprecedented drought. If the City were to allow its water rights to naturally

percolate into the stream or Devil's Gate reservoir, the City would not receive additional pumping credits and would have to rely on greater purchases of imported water, at a time when the reliability and availability of imported water is drastically declining.

The City owns water rights in the Arroyo Seco up to 25 cubic feet per second (cfs). When PWP diverts the City's water rights and spreads it in the Arroyo Seco spreading basins, the City is credited additional pumping rights per the Raymond Basin Judgment. The Judgment is a legal document that governs how the basin is managed, monitored, and maintained, and it defines the volume of groundwater and surface water rights each member of the Raymond Basin is entitled. The Raymond Basin aquifer was adjudicated in 1944. The Judgment provides the right to the City to divert up to 25 cfs for groundwater recharge and recapture by pumping. When PWP diverts the City's water rights, meters the volume, and spreads it in the Arroyo Seco spreading basins, the Judgment credits the City with a portion of the volume it spread in the form of additional pumping rights with the balance remaining as groundwater to serve as a general benefit to the aquifer. Thus, for every acre-foot of the City's water right that is spread, approximately 20 percent to 40 percent of the balance remains in the aquifer. In addition, the Project will allow for the increased ability to divert water during storm events into the larger recharge area provided by additional spreading basins. In short, the City always draws out of the Basin less than it spreads. The Project would allow for the recharge of approximately an additional 1,100 acre-foot (AF) of water annually, which would supplement the PWP's local water supplies.

To repair the damage generated by the sediment-laden flows following the Station Fire, the Project involves enhancing the existing diversion and intake structures to improve sediment removal, eliminating the need for the Headworks facility, and naturalizing the Arroyo Seco streambed through restoration activities in the most northern area of the Project.

The Project site consists of three primary areas: Area One is known as the Arroyo Seco Headworks; Area Two is known as the Arroyo Seco Intake; and Area Three is the former JPL East Parking Lot. These areas are connected together by the Gabrielino Trail, which serves as a recreational trail and the access road for City of Pasadena and United States Forest Service (USFS) vehicles heading into the Arroyo Seco Canyon. The Project scope includes improvements within each designated area as follows:

Area One - Arroyo Seco Headworks

Area One is the northernmost and farthest upstream area within the Project area and is located approximately over a half-mile north and upstream of the former JPL East Parking Lot. This area is primarily located in the low- to mid-level floodplain of the Arroyo Seco and features a bend in the stream course. It includes the existing Headworks structure across the stream; an approximate 1,000-foot portion of the Arroyo Seco streambed and associated sedimentation basins; naturally vegetated areas; and the Gabrielino Trail. A chain-link fence runs along the western edge of the trail south of Area One to Area Two.

The Arroyo Seco Headworks structure was designed to divert flows into adjacent sedimentation basins to reduce the amount of suspended solids in the stream flow. The natural stream channel around the Headworks and sedimentation basins were substantially altered due to the debris flows from rains following the 2009 Station Fire, thus rendering the facilities ineffective.

The proposed improvements in Area One include the removal of the exposed portions of the Headworks structure. The remaining improvements in Area One will focus on rehabilitating an approximate six-acre area of the Arroyo Seco floodplain that was significantly impacted by flooding in 2010. Stream restoration would involve native plant re-vegetation and the removal of invasive species on approximately 1,000 feet of the stream. In addition, the Project includes construction of a rock bank revetment; bank stabilization; creation of planting islands; and installation of woody debris clusters. A new trail is proposed across the Arroyo Seco from the lower portion of Area One and would meander between the Arroyo Seco main channel and the re-created riparian zone and would cross the stream at the northern section, with steps leading to the rest area. The trail would be approximately three feet wide and would consist of the existing ground cleared of brush and debris. Additionally, a number of interpretive signage on the local watershed and native species would be installed. A portion of the existing chain-link fence on the south end of Area One would be removed, and the trail/road would be leveled.

Trees to be planted in Area One may include Coast Live Oak, California Sycamores, Fremont Cottonwoods, California Bay Laurels, or other suitable native trees, with an associated irrigation system to support the tree establishment. Riparian planting in the rest area/picnic area would be temporarily irrigated. Water line connections would be made from the adjacent USFS Ranger Station for the irrigation and the horse water trough.

Area Two - Arroyo Seco Intake

Area Two is located approximately a quarter of a mile downstream from the Arroyo Seco Headworks. The primary structures in Area Two include a diversion and intake structure, concrete foundation pad for an equipment and storage structure, the Gabrielino Trail, and a historic bridge (Bridge No. 3) over the Arroyo Seco. The diversion weir has historically and continuously diverted stream flow into the intake structure, which was designed to accommodate up to approximately 25 cfs of water.

When stream flow is diverted into the intake, water is conveyed downstream through approximately 3,000 feet of pipe to the Arroyo Seco spreading basins. The intake consists of an approximate nine-foot high reinforced concrete retaining wall on the east bank of the stream. Near the downstream end of the retaining wall is a reinforced concrete weir that spans the width of the stream and extends above the streambed roughly two feet. The diversion and intake structure were slightly damaged due to the

debris flows following the 2009 Station Fire. Since then, the structures were repaired and placed back into service.

Within Area Two, the proposed improvements include the replacement of the diversion and intake structure and reconstruction of the access road. The access road south of the intake structure would be stabilized through the reconstruction of the embankment with protective rip-rap. The access road would be repaved with asphalt.

The existing diversion structure would be replaced with either a pneumatically operated spillway gate, or a motorized crest gate. Either option would allow an increase in the amount of water per the City's adjudicated water rights that could be diverted to the spreading basins in Area Three and to better manage sediment buildup behind the diversion structure. The proposed diversion structure would have a mechanical gate/weir (with an electric or a hydraulic actuator) and the intake would incorporate an outer debris rack, and a finer screen behind it. The new gate/weir could be effectively removed from the flow path during large storm events to minimize the amount of sediment that builds up at the diversion structure. At other times, the weir/gate would be raised to allow stream flow to be diverted through the intake structure into the spreading basins. A small educational signage plate would be located adjacent to the intake structure describing the storm water diversion operation, the fish screen, and its beneficial impact on aquatic life.

An equipment and storage building located north of the intake structure that was damaged by the 2010 winter storms will be replaced as well. The proposed control equipment enclosure would be approximately 6 feet by 10 feet and would house the controls for the diversion structure. Electric power for the diversion structure and control equipment enclosure would be supplied by an existing power line at the travelling screen building (southeast of the intake structure).

Area Three - JPL East Parking Lot

Area Three includes the former JPL East Parking Lot (now used for access only), adjacent City-owned spreading basins, and the JPL Bridge that connects the former Parking Lot to the NASA JPL Campus to the west. The former parking lot is approximately 9.6 acres and contained approximately 1,132 parking spaces that until recently, NASA JPL had leased from the City since the 1960's. These parking spaces had been leased by and restricted for use by NASA JPL employees and visitors. The parking lot is accessed from Explorer Road, which begins near the intersection of Windsor Avenue and Ventura Street, and travels through the parking lot northward to the JPL Bridge. Recently, JPL constructed a parking garage on its adjacent property, but maintains access through the former parking lot to its property. Upon termination of its lease, JPL will remove a majority of the paved surface. The Gabrielino Trail runs parallel to and east of the parking lot and also serves as a maintenance access road (North Arroyo Boulevard) that leads into the Arroyo Seco Canyon area.

Improvements proposed in Area Three include reconfiguring the former JPL parking lot to provide a public recreational parking lot with up to 100 parking stalls paved with decomposed granite or other pervious materials (in other words, the parking lot will be drastically reduced from its current size); enlarging existing and adding new spreading basins and sedimentation basins; providing an access road; a potential future pedestrian pathway; maintaining an existing trail/equestrian pathway; installing signage, pet waste disposal station, guard station near the JPL Bridge access point, and a public restroom that is compliant with the Americans with Disabilities Act (ADA). The restroom would include a trash receptacle and a recycling bin.

Native shade trees (e.g., California sycamore or similar species) would be provided along with native shrubs and grasses in parking islands of the parking lot and an irrigation system would be installed. The public restroom and a pet waste disposal station would be constructed at the north end of the new parking lot. The restroom would have two gender-neutral stalls, fire-retardant shingles, door locks, dead bolts, and a storage room. A sewer lift station on a concrete pad would be located directly adjacent to the restroom building. A potential future pedestrian pathway/trail could be constructed from the north end of the parking lot to connect to the existing Gabrielino Trail/access road to the northeast. In addition, a signage kiosk would be provided describing the spreading basin operations and inform visitors of the benefits of local water supplies and groundwater recharge. A security fence would be installed on the east side of the JPL Bridge and around the proposed roundabout.

Within Area Three, there are existing spreading basins located to the west of the existing JPL Parking Lot. The proposal includes improvements to the existing basins, while adding two new basins. The proposed sedimentation basins in Area Three would each be rectangular, in area, approximately 170 feet long by 25 feet wide by 10 feet deep. The proposed spreading basins would generally have an operating water depth of one foot and two feet of freeboard with basin wall slopes of 3:1. An approximate 15 to 20-foot-wide dirt access road would be provided around each basin. With the area's sloping terrain, maximum depths of the basins would range from 5.5 feet to 8.5 feet. Pipelines, culverts, and valves would be provided to connect the basins to each other.

Tree Removals

A tree survey was conducted to identify trees within the Project area that are potentially regulated by the City of Pasadena's City Trees and Tree Protection Ordinance (Chapter 8.52 of the Pasadena Municipal Code). Of the 147 trees included in this survey, a total of 122 trees are "native" trees and two are categorized as "specimen" trees as described in the tree protection ordinance. None of the trees in the survey area are "landmark" trees as described in the Ordinance. Of these 124 trees covered by the City Ordinance, a total of 17 are expected to be removed in order to construct the project. These consist of 13 White Alders, one Coast Live Oak, and three Arroyo Willows. Of the 147 trees documented within the Project's study area, a total of 102 meet the requirements for protection by the California Department of Fish and Wildlife (CDFW). A

total of 16 of these trees are expected to be removed to construct the Project. These include 13 White Alders and three Arroyo Willows.

In all, a total of 17 trees are expected to be removed. Of these 17 trees that are proposed for removal, 16 of them meet the requirements for protection under both the City Tree Ordinance and the Fish and Game Code. One Coast Live Oak occurs in the middle of the parking lot in Area Three that qualifies for protection under the City Tree Ordinance but not the Fish and Game Code.

On November 12, 2014, the applicant presented the proposal to remove 17 protected trees to the Urban Forestry Advisory Committee (UFAC). Following a brief presentation by the applicant, the Committee unanimously approved the request to remove the 17 protected trees.

To address the potential impact to trees, the City of Pasadena's Department of Water and Power will be required to hire a Biological Monitor to conduct inspections and to record the actual number of trees impacted by construction as well as oversee on-going construction activity. In addition, the applicant will be required to comply with the administrative guideline replacement matrix of the Tree Protection Ordinance, which requires trees to be replaced based on the size of the tree to be removed. For example, mature trees, which are trees with a diameter at breast height of 18" or larger but not on the protected list, shall be replaced at half of the ratio for trees on the protected list.

Existing Site Characteristics:

The Project site is located within the Arroyo Seco Watershed, which is a subwatershed of the larger Los Angeles River Watershed. The Arroyo Seco is a perennial creek, where there is generally flowing water year-round, but the flow is below the surface (underground) in some locations. The Project Site can be accessed via I-210 at the Windsor Avenue exit and traveling northward for approximately 0.8 mile to its intersection with Ventura Street. From this intersection, the former JPL East Parking Lot is located approximately 0.27 mile north along Explorer Road, which can be accessed by motorized travel.

Proposed Entitlement:

A Conditional Use Permit is required to allow any parkland and recreational improvements within an Open Space (OS) Zoned Property. A Conditional Use Permit Application is reviewed and processed in compliance with Section 17.61.050 (Conditional Use Permits and Master Plans) of the Zoning Code.

Specifically, under Section 17.61.050.H (Findings), six findings are required to be made in order to make an affirmative recommendation on a Conditional Use Permit. Those findings are as follows:

1. The proposed use is allowed with a Conditional Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Code;
2. The location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district;
3. The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan;
4. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;
5. The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and
6. The design location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection.

The requested entitlements were analyzed to determine if the necessary findings could be made in the affirmative to approve the application. As part of the recommendation, staff reviewed all submitted information, including all associated environmental documentation. In addition, the goals and policies of the General Plan were reviewed and it was determined that the necessary findings to support the approval of the Conditional Use Permit could be made as presented in Attachment A to this report.

Appeal to the City Council:

Following the Board of Zoning Appeals decision of March 4, 2015 and during the appeal period (March 4, 2015 to March 16, 2015), an appeal was filed with the City Clerk's Office pertaining to this case (Attachment F). In the appeal application, the appellant submitted the following as the reason(s) for the appeal:

Appellant Points

- The CEQA approval does not disclose all possible impacts or mitigate the same, and attempts to defer study and analysis until too late (during implementation).
- Potential impacts may result despite proposed mitigation, including but not limited to lack of study and deferred mitigation.

- The CUP for development in the OS Zone is not appropriate due to resulting potential impacts, health and safety risks, and required findings are not supported.
- The City has also violated express and implied spending purposes and limitations as applied for and granted by state and federal funding for improvements in the subject area and for specific purposes being violated and offended.
- The purpose and funding for the project was approved for 'habitat enhancement' but the purpose add effects now evidenced to be substantially capturing contaminated water for municipal purposes, JPL contract benefits requirements for access, guard station, etc.

Responses to Appellant

The necessary efforts to ensure all aspects of the project, including the preparation of the environmental determination, were addressed as part of the decision making process. In regards to the appellant's concerns related to the environmental determination for the project, staff consulted and retained Bonterra Psomas, a firm specializing in environmental analysis and preparing environmental documentation to address potential environmental impacts that may result from the proposed scope of work. The Initial Study concluded, based on substantial evidence in the record, that the Project would not result in any significant environmental impacts that cannot be mitigated to a less than significant level.

In view of the entire record, including public comments submitted, there is no substantial evidence to support a fair argument that the Project could have significant effect on the environment. CEQA defines "significant effect on the environment" as "a substantial or potentially substantial adverse change in the environment." (Cal. Pub. Res. Code § 21068.) Staff and its consultants have undertaken a careful analysis, based on scientific and factual data, in concluding that there are no facts on which to base a fair argument that the Project could have a significant effect on the environment. Therefore, a Mitigated Negative Declaration is the appropriate CEQA document for the Project and an EIR is not required.

CEQA does not require project alternatives to be considered in a Mitigated Negative Declaration. CEQA only requires environmental impact reports to consider and discuss alternatives and with the specific purpose of identifying ways to mitigate or avoid the significant environmental effects of the project (CEQA Guidelines Section 15126.6(b)). Since the Initial Study prepared for the project did not identify any significant unmitigable environmental effects, CEQA's purpose of evaluating alternatives is not required in this case.

While preparing the Initial Study and the Mitigated Negative Declaration (IS/MND), the consultant reviewed related environmental documentation that was previously prepared such as the Arroyo Seco Master Plan, which includes, The Hahamongna Watershed Park Master Plan, Central Arroyo Seco Master Plan, Lower Arroyo Seco Master Plan, and the Design Guidelines for the Arroyo Seco. In this case, the Hahamongna Watershed Park Master Plan (HWMP) and the Arroyo Seco Design Guidelines are applicable documents that address certain components of the proposed Project. Specifically, only Area Three of the Project site is within the HWMP's HWP study area. The projects specified in the HWMP include the conversion of the JPL East Parking Lot to a small public parking area at the north end and the expansion of the existing spreading grounds through the creation of new spreading basins on the central and southern portions of the parking lot. To capture the other two areas, as well as refine the scope of work in Area Three, the City prepared the stand-alone IS/MND analyzing the impacts of the Project in all three areas.

While a stand-alone IS/MND was prepared for the project, applicable mitigation measures from the Arroyo Seco Master EIR were considered and incorporated into the project IS/MND, while other measures were updated and/or supplemented with additional mitigation to specifically address Project-related impacts that are proposed as part of this CUP. The Initial Environmental Study for this project was prepared for the project in compliance with the California Environmental Quality Act (CEQA). The Initial Study was circulated for public review and comment for 30 days (October 9, 2014 through November 8, 2014). Most IS/MND's are typically viewed for 21 days.

During this period, staff received over 20 letters and emails, ranging from concerns on the environmental initial study to the possibility of the project taking more water from the Arroyo Seco to expressing support for the project. All comments were reviewed by staff, including the environmental consultant, and were addressed as part of a "Responses to Comments" document which was provided to both the Hearing Officer and Board of Zoning of Appeals as part of their consideration. During the response to comments, no new information was presented that would require the recirculation of the proposed Mitigated Negative Declaration.

The Conditional Use Permit process is intended to allow for activities and uses which may be desirable in an applicable zoning district and compatible with adjoining land uses, but whose effect on a site and its surroundings have to be analyzed prior to allowing such use. In this case, the Arroyo Seco area is native to this area of Pasadena. The proposed improvements will allow the restoration of the Canyon Area that was damaged following the fire-related events of 2009. In addition, the proposed project will allow the City to fully utilize its pre-1914 water rights. As such, staff determined the proposed improvements merit an approval in the affirmative since the proposed work is consistent with the current operation of the Arroyo Canyon Area.

Finally, the issue related to the applicant's concern regarding the potential misuse of grant money was not for consideration under this Conditional Use Permit.

To summarize, it was determined that the findings could be made in support of the proposed improvements. Specifically, the Arroyo Seco Canyon area improvements are primarily intended to restore the ecosystem in a portion of the Arroyo Seco Canyon, while implementing new amenities intended to benefit the surrounding community, and consistent with the OS Zoning District. The IS/MND studied the subject site, the proposed improvements and identified potential environmental impacts that could result from the project, but through mitigation measures can be addressed to a level of less than significant.

Hearing Officer Addendum:

As part of the appeal process, the Hearing Officer prepared an addendum which discusses his actions as it relates to the decision rendered on this case. Below is the Hearing Officer's analysis as it relates to the consideration of the CUP:

The one-paragraph appeal contains a series of broad statements ("unmitigated adverse impacts to the environment," "standards for granting a conditional use permit are not met," "CUP and CEQA findings are not supported by either fair argument and/or substantial evidence," and "[i]nformed CEQA decision-making has been precluded") without providing any documentation in support of these assertions. The appellant made similar statements at the original ZHO Hearing, also without any factual back-up in support of his claims. In this regard, there is nothing new of record in this appeal that would warrant a reversal of my original determination.

Contrary to the approach taken by the appellant, there is substantial information in the record justifying the original ZHO determination, including both the CEQA findings and determination and the CUP findings.

I reviewed the Initial Study, Mitigated Negative Declaration (MND), Mitigation Monitoring and Reporting Program, and additional supplemental documents in support of the CEQA determination. I concluded that all potentially adverse environmental impacts associated with the proposed project will be mitigated below significance thresholds and that an MND is therefore the appropriate CEQA determination.

I reviewed the CUP findings prepared by staff and found them to be adequate to justify making the findings in the affirmative to approve the CUP.

Because there is nothing "new" in this appeal, nor any documentation or arguments offered in support of the appellant's claims, the original ZHO determination is appropriate and should be sustained by the Board of Zoning Appeals.

GENERAL PLAN CONSISTENCY:

As part of the analysis for a Conditional Use Permit, a project is reviewed to ensure that it complies with the provisions of the Zoning Code and the General Plan. Within OS zoned property all development standards are addressed through the Conditional Use Permit process. The improvements proposed as part of this CUP are considered uses and improvements that are consistent with OS zoned property.

In further analyzing the appeal, no additional information has been presented which would modify staff's findings as presented to the Hearing Officer on January 7, 2015, and the Board of Zoning Appeals on March 4, 2015. As such, the proposed improvements within an OS Zoned property (Arroyo Seco Canyon Area) are consistent with the General Plan, adopted in 1994. The project is a multi-benefit approach for restoring the ecosystem in the Arroyo Seco, enhancing the quality and reliability of local water resources, and improving recreational experience within the Canyon. The General Plan, Policy 7.4, calls for infrastructure improvements through continued implementation of capital improvements intended to maintain or rehabilitate infrastructure.

In addition, the proposed improvements will be consistent with Land Use Element Policy 9.2 which encourages the continued planning for and implementation of plans for the Arroyo, including restoration efforts resulting in natural area for recreational use. Last, the proposed project is consistent with Land Use Element Policy 9.4 (Adequate Open Space) which encourages the creation of equitable open space throughout the City.

CONCLUSION:

Based on the analysis presented in this report, staff concludes that the findings for approval of the Conditional Use Permit to allow proposed improvements within the Arroyo Canyon Area are appropriate. The proposed project is intended to take a multi-benefit approach to repair/replace water facilities that were damaged or destroyed by the Station Fire-related events; to increase the utilization of surface water rights currently held by the City; improve water quality in the canyon; improve biological habitats; restore hydrological function and fish passage; and improve ecosystem health through multiple enhancement efforts bring undertaken by this proposal. The proposed Project involves minimizing the overall area for surface water diversion, spreading, and sedimentation management in the deeper canyon and locating it closer to the base of the Arroyo Seco Canyon. This would simplify sediment management and maintenance activities that are currently constrained by difficult access into the canyon.

As noted, the City has adjudicated water rights to divert instantaneous runoff from Arroyo Seco up to 25 cfs. The proposed improvements will allow the City to capture greater run-off particularly during storm events thus putting the City's water rights to greater beneficial use. As such, staff's recommendation to the City Council is for approval with the findings in Attachment A and the Conditions of Approval in Attachment B.

FISCAL IMPACT:

There is no fiscal impact as a result of this action to adopt the Initial Study Mitigated Negative Declaration and approve the Conditional Use Permit. The fiscal impact for project completion will be addressed by the utilization of existing budgeted appropriation in CIP #1040 – Arroyo Seco Spreading Basins and Intake Structures. It is estimated the project, including construction, will cost approximately \$8.0M to \$8.5M to complete over the next three fiscal years. It is anticipated that \$1.8M will be spent in fiscal year 2016 by utilization of existing budgeted appropriation, and the estimated balance of \$6.2M to \$6.7M will be spent in the subsequent fiscal years 2017 and 2018.

The Canyon project is partially funded by the Department of Water Resources Proposition 84 through a \$3.3M grant. Under the guidelines, the Canyon project must be constructed by December 2017 or there is a risk of losing the funding. The Canyon project provides an estimated 600 acre-feet per year in additional pumping credits. This equates to approximately \$469,800 in annual savings as compared to purchasing water from Metropolitan Water District.

Respectfully submitted,



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City Manager

Conditional Use Permit #6222 (3420, 3500, 4401 and 4500 Arroyo Seco Road)

June 1, 2015

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Attachments: (7)

Attachment A – Findings of Fact

Attachment B – Conditions of Approval

Attachment C – Mitigated Negative Declaration and Mitigation and Monitoring Reporting Program

Attachment D – Initial Study

Attachment E – Application Plans

Attachment F – Appeal Application

Attachment G – Decision of the Board of Zoning Appeals